

**NOMINATIONS OF TOVAH R. CALDERON,
HON. RUPA R. PUTTAGUNTA,
HON. KENIA SEOANE LOPEZ, AND
HON. SEAN C. STAPLES**

HEARING

BEFORE THE

**COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED SEVENTEENTH CONGRESS**

FIRST SESSION

NOMINATION OF TOVAH R. CALDERON TO BE AN ASSOCIATE JUDGE,
DISTRICT OF COLUMBIA COURT OF APPEALS,
HON. RUPA R. PUTTAGUNTA TO BE AN ASSOCIATE JUDGE, SUPERIOR
COURT OF THE DISTRICT OF COLUMBIA, HON. KENIA SEOANE LOPEZ
TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF
COLUMBIA, AND HON. SEAN C. STAPLES TO BE AN ASSOCIATE JUDGE,
SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

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**NOMINATIONS OF TOVAH R. CALDERON,
HON. KENIA S. LOPEZ,
HON. RUPA R. PUTTAGUNTA, AND
HON. SEAN C. STAPLES**

TUESDAY, SEPTEMBER 14, 2021

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:39 p.m., via Webex and in room SD-342, Dirksen Senate Office Building, Hon. Gary Peters, Chairman of the Committee, presiding.

Present: Senators Peters, Hassan, Rosen, Ossoff, Portman, Johnson, Lankford, Scott, and Hawley.

OPENING STATEMENT OF CHAIRMAN PETERS¹

Chairman PETERS. This hearing will come to order. Today we are considering four nominations: Tovah Calderon to be an Associate Judge on the District of Columbia Court of Appeals; and Rupa Ranga Puttagunta, Kenia Seoane Lopez, and Sean Staples to be Associate Judges on the Superior Court of the District of Columbia. Certainly welcome to each of our nominees and to your family members who are joining us here today. Thank you for all of your previous public service and your willingness to serve in these very important roles.

You have each been nominated to serve in critical roles in the unique justice system right here in our Nation's Capital. As judges, you will decide matters that impact the freedom, the livelihoods, and families of many individuals who will come before you.

I am pleased, certainly, to have four well-qualified nominees before us here today, each with a longstanding commitment to public service. Throughout the nomination process, this Committee has heard nothing but praise for your legal abilities and for your professionalism. Today's hearing is an important opportunity for me and my colleagues to ask questions about your qualifications, and I look forward to hearing more about how you plan to serve.

I will now recognize Senator Lankford for his opening remarks.

¹The prepared statement of Senator Peters appear in the Appendix on page 21.

OPENING STATEMENT OF SENATOR LANKFORD

Senator LANKFORD. Chairman Peters, thank you. Thank you to the nominees appearing before us to today. It is a long process to go through this, to be able to get to this spot. You did not do it alone. Obviously, your family walked with you through this, and we very much appreciate you going through that process and all your family walking with you.

The Committee does take D.C. judicial nominations very seriously. Quite frankly, that is a responsibility set to us by the U.S. Constitution. It is very different than an Article III judge and other Federal judges, but it demonstrates the unique responsibility and relationship that the Congress has with the District of Columbia. Part of that responsibility is outlined in the Home Rule Act, which ensures the District has very well-qualified judges to be able to serve in the city.

It becomes especially important when we watch what just happened in the District of Columbia over the past year. Local news media has been filled with reports detailing the rise in violent crime, particularly in homicides across the city. D.C. homicides rose 19 percent from 2019 to 2020, and it is currently up 12 percent this year. That makes it very important that this Committee continues to be able to work toward getting unbiased, qualified judges to bring justice to the criminals and to the victims of crime.

I thank this Committee and Senator Peters for your leadership in holding this hearing. We have held quite a few hearings in the previous 2 years as well, and so thank you for all this, and I look forward to the ongoing dialog today.

Chairman PETERS. Thank you, Senator Lankford.

It is the practice of this Committee to swear in witnesses, so if you will all stand and raise your right hands, including those who are joining us via video.

Do you swear that the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. CALDERON. I do.

Judge SEOANE LOPEZ. I do.

Judge PUTTAGUNTA. I do.

Judge STAPLES. I do.

Chairman PETERS. Our first nominee is Tovah Calderon. Ms. Calderon is currently an acting Deputy Assistant Attorney General (AG) in the U.S. Department of Justice (DOJ) Civil Rights Division. She has served in the Department since 2001, and has held several leadership roles in the appellate section of the Civil Rights Division.

During her 20-year tenure at the Department of Justice, Ms. Calderon has also served on details to the White House Domestic Policy Council (DPC), the Civil Rights Division Police Strategy Section, and the Senate Judiciary Committee, and notably, Ms. Calderon is also a graduate of the University of Michigan. Go Blue.

Ms. Calderon, you may proceed with your opening comments.

**TESTIMONY OF TOVAH R. CALDERON,¹ NOMINATED TO BE AN
ASSOCIATE JUDGE, DISTRICT OF COLUMBIA COURT OF AP-
PEALS**

Ms. CALDERON. Good afternoon, Chairman and Members of the Committee. I am honored and humbled to appear before you today as you consider my nomination to be an Associate Judge of the District of Columbia Court of Appeals. I would like to thank you and your staff for holding this hearing today. I also would like to thank the D.C. Judicial Nomination Commission and its chair, Judge Emmet Sullivan, for recommending me to the White House, and of course, I would like to thank President Joseph Biden for nominating me. I am also grateful to Chief Judge Anna Blackburne-Rigsby and the other D.C. Court of Appeals judges for their kind words, guidance, and encouragement as I have gone through this process.

I would not be here today if not for the love and support of my family and friends. I would like to acknowledge my parents, Stan and Marlene Calderon, as well as my brother, Michael Calderon, his wife, Julie, and their four children, Alexis, Andrew, Teddy, and Olivia. They are supporting me from their homes in Chicago, just 2½ hours from where I grew up in northwest Indiana. I also would like to acknowledge my many aunts, uncles, and cousins, as well as the countless friends and colleagues who have supported me over the years and who are cheering me on today. I have one of them here today, if you do not mind, my good friend, Kendra McLaughlin, who I have known since I was 6 years old. I am truly fortunate to have so many good people in my corner.

Finally, I would like to take a moment to thank my best friend and husband of more than 14 years, Gregory McCampbell, and he is here today as well. Gregory has served our country as a member of the military and now as a Federal civilian employee like me. He inspires me every day to work hard and to be a better person, and I am forever grateful for his unconditional love and support.

I grew up in the Midwest and moved to the District of Columbia in 1995, following graduation from the University of Michigan, as you acknowledged. I came to D.C. for a summer internship but immediately fell in love with the city and decided to make it my home, which it has been now for the last 26 years. As a student at Howard University School of Law, I interned at the D.C. Public Defender Service and also worked as a student lawyer in the school's criminal justice clinic, where I represented indigent individuals charged with misdemeanors in D.C. Superior Court. After graduation, I served as a judicial law clerk for one year in the U.S. Court of Appeals for the Fourth Circuit.

Since then, and for more than 20 years, I have proudly represented the United States in the enforcement of Federal civil rights laws at the Department of Justice. I currently serve as an Acting Deputy Assistant Attorney General in the Department's Civil Rights Division. But most of my time at the Department has been spent in the Civil Rights Division's Appellate Section. My practice in that office has been extraordinarily broad and has included both criminal and civil cases. I have handled appeals at

¹The prepared statement of Judge Calderon appears in the Appendix on page 22.

every stage of appellate litigation and in almost every Federal circuit court in the country. I also have had the privilege to work closely with the Office of the Solicitor General on cases before the U.S. Supreme Court.

Although I started in the Appellate Section as a line attorney, I eventually worked my way up to the position of Deputy Chief, with responsibility for supervising the work of more junior attorneys and helping to manage the day-to-day operations of a busy office. My career in the Civil Rights Division has provided me with a deep appreciation for the rule of law, and I am grateful to each and every one of my colleagues over the years from whom I have learned so much.

An express part of the Department's mission is to "ensure fair and impartial administration of justice." This responsibility is unique to lawyers representing the United States, and I believe it has prepared me well for a career on the bench. If confirmed, I will work hard to ensure the fair and impartial administration of justice for my fellow residents in the District of Columbia.

Thank you again for the opportunity to appear before you today, and I look forward to answering your questions.

Chairman PETERS. Thank you, Ms. Calderon.

Our next nominee is Judge Rupa Puttagunta, who currently serves as an Administrative Judge for the D.C. Rental Housing Commission, where she is responsible for ensuring the fair, stable, and effective implementation of tenant rights in the District of Columbia.

She began her legal career as a law clerk in D.C. Superior Court and the D.C. Court of Appeals. Judge Puttagunta then practiced for several years in D.C., focusing on family and criminal law at a law firm, and as a solo practitioner representing indigent defendants.

Welcome, Judge Puttagunta. You may proceed with your opening remarks.

TESTIMONY OF THE HONORABLE JUDGE RUPA R. PUTTAGUNTA,¹ NOMINATED TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Judge PUTTAGUNTA. Thank you. Mr. Chairman and Members of the Committee, I am humbled and grateful to appear before you today as a nominee to be an Associate Judge of the Superior Court of the District of Columbia. I would like to thank each of you for considering my nomination, and the Committee's staff for their hard work in preparing for today's hearing.

I thank the D.C. Judicial Nomination Commission and its chair, Judge Emmet Sullivan, for recommending me to the White House. I thank President Joseph Biden for nominating me. I would also like to recognize my chief, Chief Judge Michael Spencer of the D.C. Rental Housing Commission, for his unflagging support and encouragement, and Judges William Jackson, Todd Edelman, and Rainey Brandt of D.C. Superior Court for their mentorship and guidance.

I would like to take a moment to thank my husband, Shiva Nagaraj. I would not be sitting here today without his patience,

¹The prepared statement of Judge Puttagunta appears in the Appendix on page 59.

support, and encouragement. We are blessed to have two children, 4-year-old Anya and 6-month Taran. They bring endless joy and purpose to my life, and inspire me every day to do good, to be better, to work harder. Being a mother and a wife is my greatest accomplishment, and I cannot imagine this journey without them by my side.

I reserve a special thanks to the elders in my life. When my mother, Dr. Punnama Kalapala, unexpectedly passed away when I was 5 years old, an entire community stepped up and supported my family so that I never felt the sting of such a loss. Many of you are watching this hearing live, and with you I share all of my accomplishments.

I thank my late grandparents, Visweswarao and Seetamma Puttagunta, who inspired me to go to law school. I thank Sheshigiri and Sandhya Rani Kalapala for sharing their home with my family. I am forever grateful for your guidance. I thank my in-laws, Krishnaswamy and Vimala Nagaraj, who are always so kind and so generous with their love. But above all, I thank my parents, Dr. Ranga Puttagunta, Bharati Ranga Puttagunta, and Dr. Punnama Kalapala, for their love, sacrifice, and hard work. You have given me your everything, and whatever is best in me that I have to offer, I owe to you.

I care deeply about D.C. Superior Court as a forum for all parties to be fairly heard. For many years, I worked in Superior Court every day. It is where I learned how to practice law. I have profound admiration for the judges, the attorneys, and the staff of the Court. I appreciate how committed the Court's bench and administration are to serving justice. The judges I observed were patient, kind, respectful, and they went out of their way to ensure that even the most vulnerable litigant felt heard. They maintained fidelity to the law and issued rulings fairly and impartially. These are the values that guide me in my current role as an Administrative Judge, and if confirmed, I would uphold these values in Superior Court as well.

My father grew up in poverty in India and came to this country almost 50 years ago with \$7 in hand. He was successful and was able to provide for his loved ones. He is a shining example of the "American Dream." I was raised to be thankful for every opportunity, to value the ethos of hard work, and most importantly, to always give back to my community. This is what inspired me to pursue a career in public service, to spend hundreds of hours providing pro bono services, to represent indigent criminal defendants, and most recently, to serve D.C. as an administrative law judge. It is what inspires me to be here today and pursue this vacancy. Serving as an associate judge would be the ideal opportunity to use my skills and experience to continue contributing to the D.C. community where I have lived for 14 years.

Thank you for considering my nomination, and I look forward to answering any questions you may have about my qualifications.

Chairman PETERS. Thank you, Judge Puttagunta.

Our next nominee is Kenia Seoane Lopez. Judge Seoane Lopez currently serves as a magistrate judge on the Superior Court of the District of Columbia, a position she has held for 9 years. She previously served as a bilingual attorney negotiator in the court's Do-

mestic Violence Division, and as an assistant attorney general for the Office of the Attorney General (OAG) of the District of Columbia. Ms. Seoane Lopez also served as a law clerk on the D.C. Superior Court earlier in her legal career.

Welcome, Judge Seoane Lopez. You may proceed with your opening remarks.

TESTIMONY OF THE HONORABLE JUDGE KENIA SEOANE LOPEZ,¹ NOMINATED TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Judge SEOANE LOPEZ. Good afternoon, Mr. Chairman and Members of the Committee. I am honored to appear before you as you consider my nomination to serve as an Associate Judge for the Superior Court of the District of Columbia.

There are many people I would like to thank today, without whose help I would not be here. First, thank you and your staff for the time and effort spent preparing for this hearing. Thank you to the D.C. Judicial Nomination Commission and its chair, Judge Emmet Sullivan, for recommending me to the White House, and President Joseph Biden for nominating me.

Thank you to my siblings, Juan Jose, Wilbert, and Katherine, for their love. Thank you to my Uncle Manolo and Aunt Carmen, who passed away a year ago, for paving my family's path to this country. Thank you to my large extended family watching in Massachusetts and Florida, as well as my friends in D.C., for their faith in me and unwavering support. Thank you to my best friend and husband, Ronald, who often takes on more than his share of the parenting duties with a smile, which allows me to focus on my work. Thank you to my children, Gabriel and Natalia, for their willingness to share their mother with the families I serve. They are my source for inspiration and the impetus for everything I do.

I was born in Cuba and was fortunate to come to the United States a few months before my tenth birthday. I can say with certainty that I would not be here today without the many sacrifices made by my parents, Eloisa and Jose Seoane. I will always be in awe of my mother, a woman from a small town in the eastern part of Cuba, who had the courage to dream a better life for her four children, one that would allow them to be free and forge their own futures. My mother's dream propelled her to make decisions that set in motion a series of events that have brought me here today before the Members of this Committee.

As my mother watches today from Boston, there is no doubt that this is the fulfillment of her American Dream. Never in my mother's wildest dream could she conjure her youngest daughter being considered for a position where she is trusted with upholding the U.S. Constitution and overseeing the application of the rule of law, which are the fundamental principles that compelled her to bring her children to this country.

I have dedicated my career to public service, hoping to give back to the country that has afforded me and so many others the opportunity to turn dreams into reality. I have spent the vast majority of my legal career in the D.C. Superior Court. For the past 9 years,

¹The prepared statement of Judge Lopez appears in the Appendix on page 89.

I have served as a Magistrate Judge on the Superior Court of the District of Columbia. Before joining the bench, I spent the majority of my legal career in D.C. Superior Court, most recently as a Bilingual Attorney Negotiator in the Domestic Violence Division of the Court and prior to that as an Assistant Attorney General for the D.C. Office of the Attorney General.

The people who make up the Court, from those who keep the floors clean and the lights on to those who rule from the bench, are my second family. For their kindness, support, friendship, and wise guidance, I am eternally grateful. I would specifically like to acknowledge Chief Judge Anita Josey-Herring whose encouragement and mentorship has been invaluable.

Thank you again for your time today. If I am confirmed, it will be an honor and a privilege to continue to serve the residents of the District of Columbia as an Associate Judge on the Superior Court of the District of Columbia. I look forward to answering your questions. Thank you.

Chairman PETERS. Thank you, Judge Seoane Lopez.

Our final nominee is Sean Staples. Judge Staples also currently serves as a magistrate judge for the District of Columbia Superior Court, a position he was appointed to in 2013. Early in his career he served as a law clerk on the Superior Court when he worked as a solo practitioner and an assistant public defender in Fairfax, Virginia. He went on to work as a clinical professor for several years, supervising law students, representing criminal defendants in D.C. Superior Court. Before his current appointment, Mr. Staples held several leadership roles at Children's Law Center in Washington, DC.

Welcome, Judge Staples. You may proceed with your opening remarks.

TESTIMONY OF JUDGE SEAN C. STAPLES,¹ NOMINATED TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Judge STAPLES. Mr. Chairman and Members of the Committee, I thank you for the opportunity to appear before you today and for considering my nomination to be an Associate Judge of the Superior Court of the District of Columbia. I thank all the Members of the Judicial Nomination Commission and specifically its chair, The Honorable Emmet G. Sullivan, for recommending me to the White House and President Joseph Biden for nominating me.

I wish to recognize and thank Chief Judge Anita Josey-Herring for her leadership and support, our former Chief Judge Robert Morin for his leadership and guidance, former Chief Judge Lee Satterfield who appointed me as a magistrate in 2013, and the Committee staff for their work in preparing for this hearing.

I am pleased to be joined by my members of my family, my wife, Mary-Frances, and son, Sam, who are with us today; my mother and step-father, Lila and Fred Hirschmann, who could not be here today but are watching online from their home in Florida.

My family members, who were mostly public-school teachers and government workers, instilled in me the importance of public inter-

¹The prepared statement of Judge Staples appear in the Appendix on page 117.

est work. I want to specifically acknowledge my Uncle George Habib, who not only encouraged me to be an attorney but to also devote my career to public service. My family has been a constant source of inspiration and encouragement throughout my life, and it is beyond certain that I would not be before you today without their ongoing love and support.

It is a great honor to be considered for Associate Judge on a court where I have worked for almost 30 years. I have been a magistrate since 2013, serving in the Family, Criminal and Domestic Violence Divisions, where I have presided over hundreds of cases in some of our most high-volume courtrooms. Prior to becoming a judge, I worked at D.C. Children's Law Center, one of the largest legal services organizations in the city and the only to focus on children. I spent 7 years working in the Guardian Ad Litem Program, the last two as program director, where I supervised over half of the agencies 80-person staff in the representation of over 500 children per year in the abuse and neglect system.

I was fortunate to clerk for then Associate Judge Robert E. Morin, who continues to be an invaluable guide and mentor. I have been an assistant public defender in Virginia, a sole practitioner, and supervisor and clinical professor at the D.C. Law Students in Court Program.

It is an honor and a privilege to have served the citizens of the District of Columbia throughout my career. I am humbled by the opportunity, if confirmed, to be an associate judge and continue to serve the community that I have been a part of for almost 30 years and that I care about so much.

I look forward to answering any questions you may have. Thank you.

Chairman PETERS. Thank you, Judge Staples.

I will start the questions. My first question will be to all of the nominees to answer this. The D.C. court handles a very high volume of cases, as each of you know, and vacancies on both the Superior Court and the Court of Appeals have contributed to a significant backlog of cases.

My question to each of you is, if confirmed, how will you manage your caseload efficiently will also ensuring that each person who comes before you has a meaningful opportunity to be heard? I guess we will start with Judge Puttagunta, then Judge Seoane Lopez, Ms. Calderon, and then Judge Staples. We will do it in that order.

Judge PUTTAGUNTA. Thank you for the question, Senator. It is certainly an issue that D.C. courts face, and I think the best way we can address it is to have judges who are experienced in the courthouse, familiar with both the law that is applied in D.C., and who are able to hit the ground running. I think, as a judge, the most important thing we can do is to resolve each case expeditiously, to recognize that we are bound by the law of the D.C. Court of Appeals and the Supreme Court, and to apply that to the law.

I also recognize that not all cases need the same amount of time. There are some cases that can be resolved expeditiously, quicker than others, and we should resolve those, and that way we can leave time toward some of the cases that need more attention.

But most importantly, I think, is to roll up your sleeves and get to work.

Judge SEOANE LOPEZ. Thank you for the question. I have been on the court for 9 years now. Magistrate judges handle high-volume calendars, and I believe in the last 9 years will be crucial that experience in dealing with a calendar as an associate judge.

Because we have been short staffed, magistrate judges have actually been called upon to actually be in other divisions, which we were normally not serving, and now we serve in all the five divisions of the court. We also have been very creative in trying to do the case management and calendar assignments so that every calendar is covered.

If I am confirmed, I will continue to do what I have been doing for the last 9 years, which is to come to work every day, to work hard, to make sure that the docket moves, and to make sure that everyone is heard, and to make sure that I treat each case and rule fair and impartially in each individual case.

Ms. CALDERON. With respect to the Court of Appeals, Chairman, as you probably know it is one of the busiest State-level courts of last resort in the country, and that is due in part to the two-tier system we have in D.C. The judgments of the Superior Court are all appealed directly to the Court of Appeals without an intermediate court to serve as a filter. The backlog of cases, the heavy workload, is something I have given a lot of thought to.

You mentioned the vacancies. I think with Judge Thompson's retirement this month the court will be down about 33 percent in active judges.

But there are a couple of things that I will do. First and foremost, I will draw on my managerial experience from the Department of Justice. Specifically, my role as a deputy chief in the Appellate Section of the Civil Rights Division, where I had to juggle a high volume of cases, along with my other management and administrative duties. I had to learn how to prioritize. I had to learn how to triage, so to speak, how to delegate tasks, how to supervise, and I think all of that will be directly helpful to me, if I am confirmed, to run my chambers.

The other thing I can do, Judge Puttagunta mentioned the importance of being able to hit the ground running on day one. I have been spending my time trying to learn as much as I can about the court and its dockets and its procedures, and I will be prepared to hit the ground running on day one and seek the counsel of the fellow judges on the D.C. Court of Appeals who already have been so generous with their time, and giving me tips and pearls of wisdom about how to work efficiently so that justice is not delayed.

Judge STAPLES. I would echo the comments of my colleague, Judge Seoane Lopez. Having been a magistrate for almost the last 8 years, I have had the opportunity to serve in many high-volume courtrooms, cover many different courtrooms in the same week, and have many responsibilities at the court. I would continue to apply the skills I have learned in that work, if I am confirmed as an associate judge.

I would also add that one way I think we can deal with the number of cases in our court would be to expand the role of magistrate judges. I know that there are some proposals to do that, and if

magistrate judges are able to handle a slightly larger and different variety of cases I think that would be helpful. Thank you.

Chairman PETERS. Thank you to each of you for your answers.

Ms. Calderon, you have served as an attorney at the Department of Justice for 20 years. Tell the panel here what challenges you anticipate facing as you shift from the role of an advocate to the role of an impartial adjudicator, and how are you preparing for that transition. You mentioned in your last question how you are preparing. Specifically talk about that.

Ms. CALDERON. Certainly, Mr. Chairman. Thank you for that question. Obviously, the role of advocate is very different from the role of an impartial adjudicator. That said, I think the role of advocate for the United States government is very different than the role of advocate for private parties. As I mentioned in my opening, an express part of the Department's mission is to ensure the fair and impartial administration of justice. I have that experience coming from the Department of Justice. We do take the rule of law very seriously. We have a unique responsibility, as an appellate attorney, especially.

You may know that most of the litigating components in the Justice Department have a separate appellate office, and that is by design. That is because appellate lawyers are obligated to take a fresh look, an objective look at the case when it comes to them on appeal, make an honest assessment of the facts and the law, and make a recommendation about what the government's position should be. Sometimes that does require an adjustment to the government's position. Sometimes it even requires a recommendation that the government confess error in a particular case.

The biggest difference for me, and the challenge of course, will be that once I am on the Court of Appeals, if I am confirmed, I will no longer have the Department's institutional interests to inform my review of a case. I will have to put those aside. I have been talking to some of the current members of the court about this issue and how you have to really put aside sort of what you know and approach cases totally and completely neutrally and impartially.

Chairman PETERS. To wrap up here, I have three questions that the Committee asks of every nominee, and I am going to ask each of you to respond briefly with just a yes or no. We will start, when I ask the question here, with Ms. Calderon, and then Judge Staples, Judge Puttagunta, and Judge Seoane Lopez.

The first question. Is there anything you are aware of in your background that might present a conflict of interest with the duties of the office for which you have been nominated?

Ms. CALDERON. No, there is none.

Judge STAPLES. No.

Judge PUTTAGUNTA. No.

Chairman PETERS. I think we did not hear you, Judge Seoane Lopez.

Judge SEOANE LOPEZ. No.

Chairman PETERS. Second, do you know of anything, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Ms. CALDERON. I do not.

Judge STAPLES. No.

Judge PUTTAGUNTA. No.

Judge SEOANE LOPEZ. No.

Chairman PETERS. And last, do you agree, without reservation, to comply with any request or summons to appear and testify before any duly constituted committee of Congress, if you are confirmed?

Ms. CALDERON. Yes. Absolutely.

Judge STAPLES. Yes.

Judge PUTTAGUNTA. Absolutely, yes.

Judge SEOANE LOPEZ. Absolutely.

Chairman PETERS. Thank you for that. I am now going to recognize Senator Lankford. But before I do that I will be turning over the chair. We are in the process of voting in other committees, so chairing the committee, Senator Hassan will be chairing, but Senator Lankford, you are recognized for your questions.

Senator LANKFORD. Thank you. Let me ask a question and I will need a brief answer from all four of you on this one. It deals with not only the backlog of cases but also the delay in getting through the court system.

It is exceptionally convenient for attorneys to ask for more time, to be able to show that I am not ready. It is also exceptionally convenient for judges to say, "We will just reschedule you." It is not convenient for the people that are trying to get justice and their day in court. It is also expensive for those individuals. The backlog of cases seems to lead to more and more situations we just were not ready for today, so let's postpone this for a month or 2 months, and it continues to be able to bring one delay or another.

My question to each of you is, what are you going to do be able to manage your courtroom to be able to make sure that you do not have justice delayed in your courtroom, and the people that came to get their day in court actually get their day in court?

Judge Puttagunta, I want you to begin, and then we will just take it down the row from there.

Judge PUTTAGUNTA. Thank you, Senator. I have two responses to that. The first is I think it starts with me, as the judge. I try to be as prepared as I possibly can be in my current role at the Rental Housing Commission. I go to court knowing the record, knowing the issues, having done research so that I can get to the heart of a matter quickly and ask the questions that determine the issue.

The second, I think, is to work with counsel to set reasonable deadlines and then to have reasonable consequences if those deadlines are not met. In my experience, having practiced in Superior Court, the judges that have those high expectations tend to have them met.

Senator LANKFORD. Judge Seoane Lopez?

Judge SEOANE LOPEZ. Yes, I agree with Judge Puttagunta. The way that I handle my calendar, I am very clear at every hearing, at the beginning, what we are going to be accomplishing on that hearing, and right at the end of the hearing we talk about what we will be accomplishing at the next hearing and what needs to happen between the two. I think pretrial conferences really give you an opportunity to figure out what the issues are and work

them out before the trial date. I can tell you that I am on a calendar right now, an abuse and neglect calendar, and there are statutory requirements for when trials happen, within 105 days of removal, and we have been able to meet that challenge.

We also have a very dedicated panel of attorneys that are appointed by the court. We have a review panel made out of judges who will yield complaints if an attorney would usually ask for continuances needlessly, and the committee will address those concerns, and the attorney may no longer be on the panel to be appointed to cases. We take it very seriously at the Superior Court. That has not been my experience. I believe that people are ready. I think I tend to agree with Judge Puttagunta that if the judge sets the tone of what has to happen and when, and you are very reasonable in the way that you approach your cases, and parties understand your expectations, that the parties will be ready for trial when need to, or whatever the hearing for the day.

Senator LANKFORD. Beautiful. Ms. Calderon.

Ms. CALDERON. With respect to the Court of Appeals, I believe that deadlines and requests for extension of time are governed by the court rules, which require a showing of cause. If I am assigned to a motions panel I will do my part to make sure we are applying that standard uniformly and consistently.

I know from my own practice in the Federal courts that if a circuit has a reputation of not freely granting extensions of time, attorneys tend to get started a little earlier on their briefs. And so that will be my approach.

Senator LANKFORD. OK. Judge Staples?

Judge STAPLES. I have experienced requests for continuances and often they are about late-breaking matters, sometimes in criminal cases. I have found that if I discuss the request with the parties often we are able to come to a resolution and continue forward in the case, consistent with the defendant's constitutional rights.

I am on one of the panels that Judge Seoane Lopez mentioned regarding the Criminal Justice Act (CJA) Panels Committee that decides who is able to pick up cases and who is able to remain on the panel, and an attorney's preparedness is taken into account with respect to that, when I work on that committee.

Senator LANKFORD. OK. Thank you.

Ms. Calderon, let me ask you a question. You are going to deal with issues different than what everyone else is dealing with on this, and you know that full well. There are some challenges, just during the Coronavirus Disease 2019 (COVID-19) time period, that help us get a good feel on how the law would be handled by anyone.

Mayor Bowser issued multiple orders declaring a public health emergency. Some of those resulted in the closure of all nonessential businesses or prohibited gatherings of 10 people or more. There was quite a bit of conversation about how that applies to faith-based entities, churches in particular, and what that looks like.

My question for you is, do you view houses of worship as non-essential businesses that can be prohibited from gathering?

Ms. CALDERON. Thank you, Senator, for that question. There were a series of decisions by the Supreme Court last year in the so-called shadow docket, and so if I am confirmed to the Court of

Appeals obviously I will have to follow any decisions by the Supreme Court that are binding on this issue.

Whether a law that imposes restrictions, whether it is for a health pandemic or some other reason, whether those apply neutrally or impose a substantial burden on houses of worship, that is a very fact-intensive question. I would have to analyze whatever case that came before me in light of the facts of that case and the applicable Supreme Court precedent.

Senator LANKFORD. But dealing with stay-at-home orders, dealing with all of those things, there were times that there were stay-at-home orders but there were exceptions on outdoor gatherings for tennis courts, dog parks, farmers markets, and such, but outdoor gatherings were limited for churches in gathering.

Would you at least agree that if a farmers market can meet and a dog park can meet in an outdoor gathering that a church should have no restrictions as well for an outdoor gathering, or at least the same and make it consistent for all entities?

Ms. CALDERON. Yes, I understand what you are getting at. My concerns is that if restrictions were to be reimposed and a question like that were to come to me, I would not want to be seen as having prejudged the situation. Of course, the law in that area is evolving. And so my approach, again, would be to let the facts and applicable Supreme Court precedent drive the analysis.

Senator LANKFORD. Is there a difference in the eyes of the government between a church, a synagogue, and a business as far as their meeting and their operation? Should the government look at a church different under the law in how they gather to meet than they do looking at a business, how they gather to meet?

Ms. CALDERON. I believe the Supreme Court has said, obviously, that you cannot single out houses of worship. If there is evidence of that sort of discriminatory intent or motive, that is an important factor to take into consideration.

Senator LANKFORD. OK. Thank you. I will ask a follow-up question for the record, based on our time and the ongoing votes that are happening, but I do have some interest on just the eviction moratorium that is happening. That will be in front of all of you in the days ahead, to be able to manage the decisions of how you balance out the law. You have a unique responsibility to be able to balance out the opportunity for individuals who own, and there are quite a few in D.C., that own a single piece of rental property or a condo or something else, that suddenly have no income for a year or two and are prohibited from gathering that in D.C., to also the responsibility to be able to help maintain good housing for those other individuals.

That is a difficult legal question, and I will try to submit that for the record for each of you, to be able to follow up on. Thank you.

Senator HASSAN [Presiding.] Thank you, Senator Lankford. Senator Hawley.

OPENING STATEMENT OF SENATOR HAWLEY

Senator HAWLEY. Thank you, Madam Chair, and congratulations to the nominees. Thanks for being here.

Ms. Calderon, if I could just come to you and pick up where Senator Lankford left off a moment ago. In the case that he was referencing involving the District of Columbia and the prohibition of churches meeting in person, either indoors or outdoors, the United States District Court for the District of Columbia was sharply critical of the District, reversed the District's ban, in a written opinion. Did they get it right?

Ms. CALDERON. You are talking about decision of the D.C. Court of Appeals—

Senator HAWLEY. Right.

Ms. CALDERON [continuing]. Not the D.C. Circuit?

Senator HAWLEY. I am talking about the District Court for the District of D.C.

Ms. CALDERON. But the Federal District Court.

Senator HAWLEY. Correct. That is correct.

Ms. CALDERON. I have not read that opinion, Senator. But again, my concern with answering the questions, hypotheticals, is that if restrictions were to be reimposed and challenges were to come to me, as a sitting judge on the D.C. Court of Appeals, I would want to assure the parties that come before that I am an impartial adjudicator.

Senator HAWLEY. To give you some sense, then, of how you would perform the analysis, I mean, how would you walk through? If the same restrictions were reimposed, as existed in D.C. until the District Court struck them down, how would you walk through the analysis?

Ms. CALDERON. Again, I believe the Supreme Court's recent decisions last year, in what they call the shadow docket, have changed the analysis a little bit from what it was before. I would want to study that very carefully to make sure I am applying those standards correctly to the facts that are before me.

Senator HAWLEY. Give me your sense of what those standards are now, as you understand them.

Ms. CALDERON. Before I believe there was more of a requirement that you had to have evidence that the law had to not be neutral on its face. Now I think the court has analyzed some laws that appear neutral on their face but maybe have a burden on certain houses of worship. But I am not as familiar with the decisions. I have not had an opportunity to address those issues in my practice.

With respect to religious liberty, as you may know the Civil Rights Division actually enforces a number of statutes that prohibit religious discrimination and promote religious liberty. I do have experience under Federal statutory law enforcing the Religious Land Use and Institutionalized Persons Act (RLUIPA) as well as the religious accommodation provisions of Title 7.

That has been sort of my universe of experience on religious liberty issues, and I do appreciate the importance of it.

Senator HAWLEY. Are you familiar with the Lukumi case from the United States Supreme Court?

Ms. CALDERON. This was a—yes, sort of. I believe it involved the free exercise of Santeria religions—

Senator HAWLEY. Correct.

Ms. CALDERON [continuing]. In Miami. But I do not remember enough about it to discuss it.

Senator HAWLEY. Here is why I asked. The holding of the Lukumi case is that even laws that appear to be, and are formally neutral and generally applicable, nevertheless, if they uniquely burden—

Ms. CALDERON. Correct.

Senator HAWLEY [continuing]. A religious group, particularly a religious association—

Ms. CALDERON. Yes.

Senator HAWLEY [continuing]. Whether that is a church, or in this case, not a Christian or Jewish congregation but an entirely different religions, if they uniquely burden or disproportionately burden that religious entity then they are unconstitutional.

Now that has been the law for quite some time. Lukumi is an old case now. I do not think you would attribute that to the Supreme Court's docket. What alarms me about your answer a second ago is you said you think that the Supreme Court moved the goalpost in a shadow docket. The rule you just described to me is the rule of Lukumi, isn't it?

Ms. CALDERON. I am not as familiar with that. I am more familiar with the Federal statutory standards under RLUIPA, which do prohibit an unjustified substantial burden on religion. That is what I know.

Senator HAWLEY. Right. That is certainly true, and for my money that ought to be the constitutional rule as well. But listen, I will give you some of these questions for the record, to let you familiarize yourself, particular with the District Court's opinion in the D.C. case, which I think is a really important one.

Let me ask you about some of your political involvement, Ms. Calderon. You are one of the more partisan—have one of the more partisan political records that I have seen for a D.C. circuit nominee—D.C. court nominee, I am sorry. You are the Acting Deputy Assistant Attorney General in the Biden administration. You have worked previously for Senator Schumer. You have donated to Hillary Clinton's campaign, to now President Biden's campaign. You have also donated to some sitting Democratic Senators in the Senate, of course, which is entirely your right to do.

But here is my question. Do you think that parties who come before you can expect and anticipate and have confidence that you will be a politically neutral arbiter?

Ms. CALDERON. Thank you for asking me that, and I certainly hope so, based on my record of serving more than 20 years in the Department of Justice under both Republican and Democratic administrations. I joined the Department through the Attorney General's Honors Program in 2001, during the Bush Administration. I have now served more years under Republican administrations than I have Democratic administrations, and I am proud of all the work that the Civil Rights Division has done under both.

Senator HAWLEY. But let me ask you this. Speaking of the Civil Division, Civil Rights Division, it handles many election law disputes, including the Department's recent lawsuit against the State of Georgia for their election laws. Were you involved in that case?

Ms. CALDERON. No, I was not, Senator.

Senator HAWLEY. Did you advise in a policy capacity in any way?

Ms. CALDERON. No, Senator. In my current role as an Acting Deputy Assistant Attorney General I am responsible for reviewing the work of two sections that enforce statutes that prohibit employment discrimination. I have also been responsible for implementing the Servicemembers and Veterans Initiative Act of 2020, which was signed into law by President Trump earlier this year.

Senator HAWLEY. Let me ask you about the Brnovich case, Brnovich v. DNC. Were you involved in that case?

Ms. CALDERON. I was not.

Senator HAWLEY. What do you understand the holding of that case to be, as it would bind you?

Ms. CALDERON. Senator, voting rights has not been an area that I have focused on.

Senator HAWLEY. Have you read the Brnovich case?

Ms. CALDERON. I did skim it when it came out. Correct.

Senator HAWLEY. What is your memory and understanding of what you would be compelled to follow, according to Supreme Court precedent?

Ms. CALDERON. Again, voting rights is not in my current portfolio.

Senator HAWLEY. Are you telling me you are not prepared to adjudicate voting rights disputes? I am not sure what to make of this answer. Are you not prepared to adjudicate these, or you are just saying that you did not prepare for today?

Ms. CALDERON. No. I am saying that voting rights is not in my current portfolio. It is not something I have focused on the last few years.

Senator HAWLEY. And so you are not prepared to answer my questions about it.

Ms. CALDERON. I am happy to answer your question for the record.

Senator HAWLEY. I am noticing a pattern here. I mean, you are not answering my questions on voting rights. You are not answering them on religious liberty. You are asking for a very important judgeship but you are telling me you are not familiar with large swaths of law. I understand that you are under oath here, in front of cameras. I am sure you were advised not to answer questions.

But can I just tell you that it is very hard for me to evaluate your record on these issues, your positions, if you are telling me that you are not familiar with large portions of very important law, including Supreme Court cases, including Supreme Court precedents that are quite old, frankly, and venerable, that you apparently have no memory of, and in the case of Brnovich, Supreme Court cases that are quite recent and important that you say that you are not familiar with. That is a big concern for me.

Ms. CALDERON. Senator, I am aware of those decisions.

Senator HAWLEY. Good. Tell me what you think they mean then and how you are going to apply them.

Ms. CALDERON. I am aware of the decisions. I understand Brnovich involves Section 2 of the Voting Rights Act.

Senator HAWLEY. Good.

Ms. CALDERON. I know that it involved an Arizona law. I do not know enough about it to speak with you about it at this time. My approach, as a generalist, in the appellate section, has been to get

up to speed on the area of law for the cases that are before me, at the time that they are before me.

Senator HAWLEY. Listen. I will give you these questions for the record. I just have to tell you, I sit on the Judiciary Committee. I would be less concerned about this if this were not a consistent pattern. You are clearly a very accomplished attorney—I mean, there is no doubt about that—and extremely capable. There is no doubt about that. I just do not believe that it is a matter of you not being familiar with case law. My guess is you have an incredible mastery of huge bodies of case law. I suspect you were advised not to be prepared on these issues so that you could just say that you do not know and you cannot answer the questions. I will submit to you that I think that that is unacceptable.

I will give you these questions for the record, but I have to tell you, based on what you have not told me here today, I am really concerned.

Thank you, Madam Chair.

Chairman PETERS [Presiding.] Thank you, Senator Hawley. Senator Portman, you are recognized for your questions.

OPENING STATEMENT OF SENATOR PORTMAN

Senator PORTMAN. Thank you, Mr. Chairman, and thanks to my friend, James Lankford, for his role today as the Ranking Member.

There was a little discussion earlier about crime, and there is a crime wave in D.C., as you know, and it is not only in D.C., it is happening around the country, particularly in some of our bigger urban centers. According to the crime statistics, assaults with dangerous weapons, homicides, and armed robberies are all on the rise. Armed robberies are actually up 22 percent from last year. A 22 percent increase in armed robberies this year as compared to last year. Last year was a concerning year, as you know.

The D.C. Chief of Police has recently criticized the D.C. court system for contributing to the rise in crime, accusing the court system of allowing criminals to roam free. I can give you a citation to that, but that was his concern.

To our D.C. Superior Court candidates here, our nominees, in particular, what can the court system do to address this crime wave and to avoid what the Chief of Police at least believes is part of the problem? What other ways would you recommend that the court work better with the prosecutors and with law enforcement to reduce crime?

Judge STAPLES. Senator, this is Sean Staples. I am sorry. I do not know what order we were supposed to go in.

Senator PORTMAN. Excellent. I will let you go first, since you started talking. That is great. I would love to hear from all three of you. Thank you.

Judge STAPLES. I think the court, and all of its partners in the criminal justice system, are acutely concerned about the rise in violent crime. What I can tell you, as a sitting judge, we have to look at these cases very carefully and decide them as fairly and as impartially as we can. We have a criminal justice committee, the C-10 Committee, that meets twice a month, that discusses the operations of the C-10 courtroom. That includes all of our partners from the U.S. Attorney's Office, from the Attorney General's Office,

from the Pretrial Services Agency, from MPD, and from the Department of Corrections. And that discusses how that court functions appropriately.

But the bottom line for me is the judicial officers look at these cases very carefully and decide them on a case-by-case basis as carefully as I can.

Senator PORTMAN. Others?

Judge SEOANE LOPEZ. I am happy to start.

Senator PORTMAN. Ms. Lopez.

Judge PUTTAGUNTA. Go ahead, Judge Lopez.

Judge SEOANE LOPEZ. Yes. I agree with Judge Staples. I believe that the court does have a good track record of working with stakeholders that are in every committee of the court, including those in the Criminal Division. The way that we can address that issue is to, again, roll up our sleeves, get to work, rule on our cases expeditiously, and in a fair and impartial manner, while actually working with our stakeholders to improve the administration of justice, which we aim to do on a regular basis.

But I do agree that the court is actively working on that. I think COVID has provided us an opportunity to kind of do a wholesale approach of a review of all of our operations, and we have been doing that to kind of figure out what is the best way to go forward in terms of using the technologies, and those conversations are in play about how we can expeditiously deal with the cases that are before us.

Unfortunately, the judge's role is very limited in the cases that it sees, and so our work is just to make sure that those cases are heard quickly and expeditiously and that we have certain trial dates, which we are all working on, and continue to work with our partners to make sure that we are doing the best that we can within our confines to address the issues.

Judge PUTTAGUNTA. Thank you, Senator. I echo the sentiments of my fellow nominees. As a judge, I believe it is most important that we faithfully apply the law, the statutes created by D.C. Council, the law created by the D.C. Court of Appeals and Supreme Court, and do that as faithfully as we can to each set of facts that come before us and to ensure that it is fairly and impartially and consistently applied.

I also agree with my fellow nominees' statements that keeping open lines of communications with stakeholders, MPD, the Defense Office, the Prosecutor's Office, and evaluating operationally how the court is functioning and what we can do to help address this is also appropriate.

Senator PORTMAN. Those answers are fine. I guess what did not hear in any of the answers is that you have any new ideas to deal with the crime wave, except that you will apply the law fairly and expeditiously as possible. By the way, the backlog, as we have talked about earlier, is a huge issue too. The major has talked about that. She has criticized you guys because she cited it as a public safety concern in terms of the backlog. I say "you guys." I mean, the D.C. court system.

Let me ask a more general question. Are you concerned about crime in D.C., and is that something where, as a judge, you feel like, you have a role to think about sentencing and think about

how to deal with it? There has obviously been not just increased crime but also increased drug use and drug overdoses and drug overdose deaths. The issue of illegality is one that has grown, and I think the courts do have a role to play here, not just to apply the law fairly but to look at this from a different perspective, perhaps.

Let me ask you that generally. Are you concerned about the crime wave, and do you think the court has a role to play?

Judge STAPLES. I will start again.

Senator PORTMAN. Mr. Staples, we will start with you, because you started before.

Judge STAPLES. Thank you. I think, as I said, all of the agencies that work in this criminal justice sphere are concerned about crime. But I think often, as a judicial officer, to discuss these issues often wades into policy concerns about what we do about them, what we do about issues regarding crime. I do believe my role, it is really just to listen and really focus, however, and listen to the cases that are before me, with a heightened focus, to be able to deal with these issues effectively.

Senator PORTMAN. OK.

Judge SEOANE LOPEZ. Yes.

Senator PORTMAN. My time has about expired, but I would just refer you to the concerns of the D.C. Chief of Police and the mayor of D.C., both of whom talk about, one, the mayor, talking about public safety, given your backlog and the concern about getting the bad people off the streets, and then the Chief of Police talking about the court system too often letting criminals roam free. I hope that should you all be successful in your confirmations that you will consider those concerns and consider your responsibility in trying to address those.

Thank you, Mr. Chairman.

Chairman PETERS. Thank you, Ranking Member Portman.

The nominees have filed responses to biographical¹ and financial questionnaires.² Without objection, this information will be made a part of the hearing record,³ with the exception of the financial data, which are on file and are available for public inspection in the Committee offices.⁴

The hearing record will remain open until 5 p.m. tomorrow, September 15th, for the submission of statements and questions for the record.

This hearing is now adjourned.

[Whereupon, at 3:34 p.m., the hearing was adjourned.]

¹The information of Ms. Calderon appears in the Appendix on page 24.

²The information of Judge Puttagunta appears in the Appendix on page 61.

³The information of Judge Seoane Lopez appear in the Appendix on page 91.

⁴The information of Judge Staples appear in the Appendix on page 118.

A P P E N D I X

**Chairman Peters Opening Statement As Prepared for Delivery
Full Committee Hearing: Nominations of Tovah R. Calderon to be an Associate Judge,
District of Columbia Court of Appeals, and Kenia Seoane Lopez, Rupa R. Puttagunta, and
Sean C. Staples to be Associate Judges, Superior Court of the District of Columbia
September 14, 2021**

Today we are considering four nominations, Tovah R. Calderon to be an Associate Judge on the District of Columbia Court of Appeals, and Rupa Ranga Puttagunta, Kenia Seoane Lopez, and Sean C. Staples, to be Associate Judges on the Superior Court of the District of Columbia.

Welcome to each of the nominees and your family members who are joining us today. Thank you all for your previous public service and your willingness to serve in these important new roles. You have each been nominated to serve in critical roles in the unique justice system here in our nation's capital. As judges, you will decide matters that impact the freedom, livelihoods, and families of many of the individuals who come before you.

I am pleased to have four well-qualified nominees before us today, each with a longstanding commitment to public service. Throughout the nomination process, this Committee has heard nothing but praise for your legal abilities and professionalism.

Today's hearing is an important opportunity for me and my colleagues to ask questions about your qualifications, and I look forward to hearing more about how you plan to serve.

Opening Statement of Tovah R. Calderon
Nominee to be an Associate Judge of the District of Columbia Court of Appeals
September 14, 2021

Good afternoon, Chairman and members of the Committee. I am honored and humbled to appear before you today as you consider my nomination to be an Associate Judge of the District of Columbia Court of Appeals. I would like to thank you and your staff for holding this hearing, and Congresswoman Eleanor Holmes Norton for the kind introduction. I also would like to thank the D.C. Judicial Nomination Commission and its chair, Judge Emmet Sullivan, for recommending me to the White House, and of course, I would like to thank President Joseph Biden for nominating me. I am also grateful to Chief Judge Anna Blackburne-Rigsby and the other D.C. Court of Appeals judges for their kind words, guidance, and encouragement as I have gone through this process.

I would not be here today if not for the love and support of my family and friends. I would like to acknowledge my parents, Stan and Marlene Calderon, as well as my brother, Michael Calderon, his wife, Julie, and their four children, Alexis, Andrew, Teddy, and Olivia. They are supporting me from their homes in Chicago, just two and half hours from where I grew up in northwest Indiana. I also would like to acknowledge my many aunts, uncles, and cousins, as well as the countless friends and colleagues who have supported me over the years and who are cheering me on today. I am truly fortunate to have so many good people in my corner. Finally, I would like to take a moment to thank my best friend and husband of more than 14 years, Gregory McCampbell, who has served our country as a member of the military and now as a federal civilian employee like me. He inspires me every day to work hard and to be a better person, and I am forever grateful for his unconditional love and support.

I grew up in the Midwest and moved to the District of Columbia in 1995, following graduation from the University of Michigan. I came to D.C. for a summer internship but immediately fell in love with the City and decided to make it my home, which it has been now for the last twenty-six years. As a student at Howard University School of Law, I interned at the D.C. Public Defender Service and also worked as a student lawyer in the school's criminal justice clinic, where I represented indigent individuals charged with misdemeanors in D.C. Superior Court. After graduation, I served as a judicial law clerk for one year in the U.S. Court of Appeals for the Fourth Circuit.

Since then, and for more than 20 years, I have proudly represented the United States in the enforcement of federal civil rights laws at the Department of Justice. I currently serve as an Acting Deputy Assistant Attorney General in the Department's Civil Rights Division. But most of my time at the Department has been spent in the Civil Rights Division's Appellate Section. My practice in that office has been extraordinarily broad and has included both criminal and civil cases. I have handled appeals at every stage of appellate litigation and in almost every federal circuit court in the country. I also have had the privilege to work closely with the Office of the Solicitor General on cases before the U.S. Supreme Court. Although I started in the Appellate Section as a line attorney, I eventually worked my way up to the position of Deputy Chief, with responsibility for supervising the work of more junior attorneys and helping to manage the day-to-day operations of a busy office. My career in the Civil Rights Division has provided me with

a deep appreciation for the rule of law, and I am grateful to each and every one of my colleagues over the years from whom I have learned so much.

An express part of the Department's mission is to "ensure fair and impartial administration of justice." This responsibility is unique to lawyers representing the United States, and I believe it has prepared me well for a career on the bench. If confirmed, I will work hard to ensure the fair and impartial administration of justice for my fellow residents in the District of Columbia.

Thank you again for the opportunity to appear before you today, and I look forward to answering your questions.

REDACTED

**QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE**

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

- 1. Full name (include any former names used).**
Tovah Renee Calderon
- 2. Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).**
United States
- 3. Current office address and telephone number.**
United States Department of Justice
Office of the Assistant Attorney General, Civil Rights Division
950 Pennsylvania Avenue, NW, Room 5529
Washington, DC 20530
(202) 514-4142
- 4. Date and place of birth.**
November 1, 1972; Lafayette, Indiana
- 5. Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**
I am married to Gregory E. McCampbell, Government Information Specialist for the United States Department of Education, 400 Maryland Avenue, SW, Room 3W253 Washington, DC 20202.
- 6. Names and ages of children. List occupation and employer's name if appropriate.**
None.
- 7. Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.**
1997-2000, Howard University School of Law, Juris Doctor, 2000

1991-1995, University of Michigan, Bachelor of Arts, 1995

1993-1994, University of Seville (Spain), no degree awarded

8. **Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

1996-1997
The Grill from Ipanema
1858 Columbia Road NW
Washington, DC 20009
Bartender (part-time)

1996-1997
Ayuda, Inc.
6925 Willow Street NW B
Washington, DC 20012
Volunteer Coordinator

1996 (one month only)
National Council of La Raza (now called UnidosUS)
1126 16th Street, NW, Suite 600
Washington, DC 20036
Temporary Clerk Typist

1995-1996
Big Brothers of the National Capital Area (now called Big Brothers Big Sisters of the National Capital Area)
910 17th Street, NW, Suite 404
Washington, DC 20006
Americorps Ally/Caseworker

Summer 1995
United States Department of State
Bureau of Inter-American Affairs (now called the Bureau of Western Hemisphere Affairs)
2201 C Street, NW
Washington, DC 20520
Intern

9. **Honors and awards. List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any**

other special recognition for outstanding service or achievement.

United States Department of Justice Awards:

The Attorney General's John Marshall Award for Providing Legal Advice (2015)

The Civil Rights Division Walter W. Barnett Memorial Award for Excellence in Advocacy (2008)

Quality Step Increases (2012, 2009, 2007)

Performance Awards (2020, 2019, 2018, 2017, 2016, 2015, 2014, 2011, 2010, 2002)

Special Service Award (2004)

Academic Awards and Recognitions:

Magna Cum Laude, Howard University School of Law (2000)

Merit Fellows Scholarship Recipient, Howard University School of Law (1997-2000)

8 Cali Awards, Howard University School of Law (1997-2000)

Class Honors, University of Michigan (1995)

Outstanding Student Leadership Award, University of Michigan (1995)

James B. Angell Scholar, University of Michigan (1993)

Michigan Scholar, University of Michigan (1991)

- 10. Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.**

None.

- 11. Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.**

DC Bar, Member (2001-present)

Florida Bar, Member (2000-present) (currently inactive)

Hispanic Bar Association of the District of Columbia, Member (approx. 1998-present)

- 12. Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.**

American Constitution Society, Member (2001-present)

Kenesaw Phoenix Cooperative Association, Board Member (approx. 2007-2013)

DC Film Society, Member (approx. 2002-2009)

Francis D. Murnaghan, Jr. Appellate Advocacy Fellowship, Steering Committee Member (2000-2001)

To the best of my knowledge, none of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.

- 13. Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.**

United States Court of Appeals for the First Circuit, June 26, 2018

United States Court of Appeals for the Second Circuit, April 30, 2018

United States Court of Appeals for the Tenth Circuit, April 29, 2015

United States Court of Appeals for the Seventh Circuit, September 20, 2006

United States Court of Appeals for the District of Columbia Circuit, March 30, 2004

United States Supreme Court, January 13, 2004

United States Court of Appeals for the Ninth Circuit, July 2, 2003

United States Court of Appeals for the Fifth Circuit, February 5, 2002

District of Columbia, July 9, 2001

United States Court of Appeals for the Fourth Circuit, May 18, 2001

Florida, October 2, 2000

There have been no lapses in membership.

- 14. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.**

Race-Based Policing from Terry to Wardlow: Steps Down the Totalitarian Path, 44 How. L.J. 73 (2000).

Play Will Retell Memories of Holocaust, Mich. Daily, Apr. 21, 1992, at 3.

Homeless Erect 'Tent City' in Vacant Lot, Mich. Daily, Apr. 17, 1992, at 3.

Laughtrack's Low Turn Out May Be Due to No Alcohol, Mich. Daily, April 13, 1992, at 3.

ICC Members Say Co-Op Living Provides Work Experience, Friendships, Diversity, Mich. Daily, Apr. 9, 1992, at 5.

Visiting Officers Speak to ROTC Students on Race, Gender Issues, Mich. Daily, Mar. 27, 1992, at 3.

I may have written additional articles, including for my law school newspaper, but I do not recall the specific articles, and I am unable to find them based on a review of my records and public sources.

- 15. Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.**

None.

- 16. Legal career.**

A. Describe chronologically your law practice and experience after graduation from law school, including:

- (1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;**

I was appointed to serve as a law clerk to the Honorable Francis D. Murnaghan, Jr. on the United States Court of Appeals for the Fourth Circuit from 2000 to 2001. After Judge Murnaghan's passing on August

31, 2000, I spent the remainder of the year serving other Fourth Circuit and District of Maryland judges. My primary supervisor was the Honorable Andre M. Davis.

(2) Whether you practiced alone, and if so, the addresses and dates;

I have not practiced alone.

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

2001-present
United States Department of Justice, Civil Rights Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

2005-2006 (detail)
United States Senate, Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

2013-2014 (detail)
White House, Domestic Policy Council
Eisenhower Executive Office Building
1650 Pennsylvania Avenue, NW
Washington, DC 20502

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

From 2001 to 2005, I served as an attorney in the Appellate Section of the Department of Justice Civil Rights Division. Attorneys in the Appellate Section represent the United States in the enforcement of federal civil rights laws in the U.S. Courts of Appeals and the U.S. Supreme Court. This practice includes the enforcement of criminal laws that prohibit hate crimes, law enforcement misconduct, and human trafficking; and the enforcement of civil laws that prohibit discrimination in employment, housing, voting, education, public facilities and accommodations, and the criminal justice system. In addition to representing the United States as a party and as amicus curiae in appeals, the Appellate Section provides substantial legal counsel to the Civil Rights Division's trial sections. As an Appellate Section attorney, my primary responsibilities were researching, briefing, and arguing cases in the courts of appeals and assisting attorneys in the Office of the Solicitor General with appeals in the Supreme Court. I also prepared legal counsel memoranda to support the Division's trial work.

From 2005 to 2006, while still employed by the Department of Justice, I was detailed to the Senate Judiciary Committee, where I served as Counsel to Sen. Charles Schumer and advised on a wide variety of civil-rights related issues. I also worked with other Committee staffers to organize and prepare members for hearings on Supreme Court nominations and reauthorization of the Voting Rights Act.

From 2006 to 2010, I returned to my position as an attorney in the Appellate Section of the Department of Justice Civil Rights Division and resumed the duties described above.

From 2010 to 2012, while still employed in the Appellate Section, I was detailed to the Division's Policy and Strategy Section to serve as a Legislative and Policy Counsel. I assisted the Acting Chief in launching this new Section within the Civil Rights Division to coordinate, develop, and advance legislative priorities and other policy matters relating to the Division's enforcement authority.

From 2012 to 2013, I served as a Special Litigation Counsel in the Appellate Section of the Department of Justice Civil Rights Division, a position to which I was promoted immediately upon returning from my detail to the Division's Policy and Strategy Section. In this role, I was assigned more complex legal matters and began supervising other attorneys. I also became a member of the Section's management team and worked to improve operations of the office.

From 2013 to 2014, while still employed by the Department of Justice, I was detailed to the White House Domestic Policy Council, where I served as a Senior Policy Advisor. I worked closely with the Special Assistant to the President for Justice and Regulatory Policy to advise the President and his senior advisors on civil rights policy matters, focusing primarily on LGBT rights, voting rights and election reform, human trafficking, and disability discrimination issues.

From 2014 to 2016, I returned to my position as a Special Litigation Counsel in the Appellate Section of the Department of Justice Civil Rights Division and resumed the duties described above.

From 2016 to 2021, I served as a Deputy Chief in the Appellate Section of the Department of Justice Civil Rights Division. In this role, I worked closely with the Section Chief to supervise the Division's appellate program and manage all aspects of the office, including hiring, training, supervising, and evaluating the Section's line attorney staff. I also served as the Acting Chief when the Chief was unavailable.

Since January 2021 to the present, I have been serving on a temporary detail as an Acting Deputy Assistant Attorney General in the Civil Rights Division, reviewing the work of two offices responsible for enforcing laws that prohibit employment

discrimination: the Employment Litigation Section (ELS), which enforces Title VII of the Civil Rights Act of 1964 and the Uniformed Services Employment and Reemployment Rights Act, and the Immigrant and Employee Rights Section (IER), which enforces the anti-discrimination provision of the Immigration and Nationality Act. ELS litigates its cases in federal district court, while IER adjudicates its cases before an administrative hearing officer. In addition, I currently am overseeing the Division's implementation of the Servicemembers and Veterans Initiative Act of 2020.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

As a federal government attorney, my client is the United States. My regular practice (before I was detailed to the Civil Rights Division's Office of the Assistant Attorney General in January 2021) is an appellate practice that includes all areas of civil and criminal federal civil rights enforcement. My civil practice areas include enforcement of laws that prohibit discrimination in employment, housing, voting, education, public accommodations and facilities, and the criminal justice system. My criminal practice areas include enforcement of laws that prohibit hate crimes, law enforcement misconduct, and human trafficking. These practice areas are extraordinarily broad, and I do not specialize in any particular one.

D. Describe the general nature of your litigation experience, including:

(1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

Between 2001 and 2010 (except between 2005 and 2006, when I was on detail to the Senate Judiciary Committee), I argued approximately one case per year in the United States Courts of Appeals. In total, I argued eight cases (including one heard en banc) in five different circuits (Third, Fourth, Fifth, Eighth, and Ninth Circuits). During this period, I handled many appeals that were submitted on the briefs, without oral argument. In addition, I filed several briefs as amicus curiae and, consistent with the Department's practice, often did not seek to participate at oral argument in those cases. Finally, I also worked on many Supreme Court cases, which are argued by attorneys in the Office of the Solicitor General.

I did not appear in court between 2010 and 2012, because I was fulfilling a policy counsel role while on detail to the Civil Rights Division's Policy and Strategy Section.

I also have not appeared in court since 2012, because I have been serving as an attorney supervisor and manager. In that role, I help line attorneys under my supervision prepare for oral arguments in the U.S. Courts of Appeals. The guidance that I provide is informed in part by my own prior experience arguing cases in the courts of appeals. I also help prepare attorneys in the Office of the Solicitor General for oral arguments in the U.S. Supreme Court. In addition, since January 2021, I have been reviewing the work of two offices that litigate in federal district court and before an administrative hearing officer.

- (2) **What percentage of these appearances was in:**
- (a) **Federal courts (including Federal courts in D.C.);**
100%
 - (b) **State courts of record (excluding D.C. courts);**
0%
 - (c) **D.C. courts (Superior Court and D.C. Court of Appeals only);**
0%
 - (d) **other courts and administrative bodies.**
0%
- (3) **What percentage of your litigation has been:**
- (a) **civil;**
Approximately 50%
 - (b) **criminal.**
Approximately 50%
- (4) **What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.**

I have worked in the Civil Rights Division's Appellate Section for most of

my career and have not tried any cases. I have, however, provided substantial legal counsel to trial attorneys over the years (*see, e.g., United States v. Seale*, discussed in my response to Question 17).

In addition, since late January 2021, I have been serving on a temporary detail as an Acting Deputy Assistant Attorney General in the Civil Rights Division, reviewing the work of two trial sections responsible for enforcing laws that prohibit employment discrimination: the Employment Litigation Section, which litigates in federal district court; and the Immigrant and Employee Rights Section, which litigates before an administrative hearing officer.

(5) What percentage of these trials was to

(a) a jury;

None.

(b) the court (include cases decided on motion but tabulate them separately).

None.

- 17. Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.**

1. *United States v. Hill*, 927 F.3d 188 (4th Cir. 2019), *cert. denied*, 141 S. Ct. 272 (2020), involved a federal hate crimes prosecution of an Amazon worker who attacked his coworker because he was gay. The Fourth Circuit reversed a district court's judgment of acquittal on constitutional grounds. This case is significant because it is the first court of appeals decision addressing and upholding the constitutionality of a provision of the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009, 18 U.S.C. 249(a)(2)(B)(iv)(I), that criminalizes bias-motivated violent interference with a person who is engaged in ongoing commercial activity. I represented the United States as appellant.

I was the attorney supervisor responsible for securing authorization from the Solicitor General to appeal the district court's judgment, reviewing and editing the

assigned line attorney's drafts (including the memorandum to the Solicitor General and the government's opening and reply briefs), and coaching the assigned line attorney as he prepared for oral argument. I also was responsible for reviewing and substantially rewriting the government's brief in opposition to Hill's petition for rehearing en banc, as well as the government's draft brief in opposition to Hill's petition for a writ of certiorari.

The Fourth Circuit reversed the district court's judgment of acquittal. In a 2-1 published opinion, the court of appeals adopted the government's arguments and agreed that application of the Hate Crimes Prevention Act to the Amazon worker who assaulted his coworker because he was gay while the coworker was engaged in ongoing commercial activity constituted a valid exercise of Congress's authority under the Commerce Clause. The court also subsequently denied Hill's petition for rehearing en banc, and the Supreme Court denied his petition for a writ of certiorari.

The case was heard by Fourth Circuit Judges Motz, Agee, and Wynn.

Dates of representation: August 2018-October 2020

Co-counsel:

Thomas Chandler
Civil Rights Division, Appellate Section
Ben Franklin Station, P.O. Box 14403
Washington, DC 20044-4403
(571) 215-4940

Elizabeth Hecker
Civil Rights Division, Appellate Section
Ben Franklin Station, P.O. Box 14403
Washington, DC 20044-4403
(917) 215-3494

Vikram Swaruop
Office of the Attorney General for the District of Columbia
400 6th Street NW
Washington, DC 20001
(469) 693-8387

Principal counsel for James William Hill, III:

Patrick Bryant
Office of the Federal Public Defender for the Eastern District of Virginia
1650 King Street, Suite 500
Alexandria, VA 22314
(703) 600-0800

2. *United States v. Seale*, 600 F.3d 473 (5th Cir.), *cert. denied*, 562 U.S. 868 (2010), involved the Department of Justice's prosecution of James Ford Seale, a former member of the Ku Klux Klan who kidnapped and killed two African-American teenagers in Mississippi in 1964, before evading justice for the next 43 years. This case is significant for its historical importance and for its novel and complex legal issues. I represented the United States as appellee.

As a line attorney, I was first assigned to serve as legal counsel to the prosecution team to determine whether the defendant could be indicted in 2007 without violating the statute of limitations. The issue was novel and complex, but the arguments I developed persuaded Department leadership to approve the indictment and the district court to deny Seale's motion to dismiss. After Seale was convicted and sentenced, I handled the extensive appellate proceedings that ensued during the next three years. The primary issue on appeal involved the applicable statute of limitations, and a panel of the Fifth Circuit initially reversed Seale's conviction. I successfully petitioned the court to vacate the panel decision and rehear the case en banc. In addition to mastering the extensive trial record, handling all of the briefing on appeal, and presenting oral argument to the panel and to the 18-judge en banc court, I also responded successfully in short order to multiple defense motions for release pending appeal (including one made after the panel initially reversed Seale's conviction) and to an unusual defense motion to certify the statute-of-limitations issue to the Supreme Court. I also drafted the government's opposition to Seale's petition for a writ of certiorari. All of this work was done under the scrutiny of intense media coverage.

By reason of an equally divided en banc court, the Fifth Circuit affirmed the district court's denial of the motion to dismiss the indictment and remanded the case to the panel for resolution of the remaining issues. Those issues included, among other things, a question involving the admissibility of Seale's incriminating statements made to the FBI in 1964 (before the Supreme Court issued its decision in *Miranda*) and a due process challenge based on pre-indictment delay. The panel ultimately issued a published decision affirming Seale's conviction, and the Supreme Court denied certiorari.

The case was heard by Fifth Circuit Judges Davis, Smith, and DeMoss sitting on the panel and additionally by Judges Jones, King, Jolly, Wiener, Barksdale, Garza, Benavides, Stewart, Dennis, Clement, Prado, Owen, Elrod, Southwick, and Haynes sitting en banc.

Dates of representation: September 2007-October 2010

Co-counsel:
Jessica Dunsay Silver
6829 Wilson Lane

Bethesda, MD 20817
(301) 229-2295

Principal counsel for James Ford Seale:

Kathryn N. Nester
Executive Director
Federal Defenders of San Diego, Inc.
225 Broadway, Suite 900
San Diego, CA 92101
(619) 234-8467

3. *United States v. Weems & Mitchell*, 517 F.3d 1027 (8th Cir. 2008), involved the Department's prosecution of two men for burning a cross in the yard of an African-American man. A jury convicted the defendant of conspiracy to violate federal fair housing rights, and the district court sentenced the defendants to only one month in prison. The Department appealed the sentence. This case is significant because it resulted in a published Eighth Circuit decision clarifying the circumstances in which a sentencing enhancement for hate crime motivation applies to convictions under 18 U.S.C. 241, which criminalizes conspiracy against federal rights, and the standard for proving whether someone is a "minor participant" in a conspiracy for purposes of receiving a sentencing reduction. I represented the United States as appellant.

As the assigned line attorney, I was responsible for preparing a recommendation to the Solicitor General to authorize the appeal, drafting the government's brief as appellant, and arguing the case before the Eighth Circuit.

The Eighth Circuit vacated the defendants' sentences. Consistent with the government's arguments, the court held that application of the sentencing enhancement for hate crime motivation to a racially motivated conspiracy is not duplicative because racial motivation is not an element of the offense of conviction, 18 U.S.C. 241, or the applicable base offense level. The court also held that a "minor participant" sentencing reduction is determined by measuring the relevant conduct against the elements of the offense of conviction and that offenses of which a defendant is acquitted are irrelevant.

The case was heard by Eighth Circuit Judges Wollman and Smith and by Southern District of Iowa Judge Gritzner sitting by designation.

Dates of representation: March 2007-February 2008

Co-counsel:

Jessica Dunsay Silver
6829 Wilson Lane
Bethesda, MD 20817

(301) 229-2295

Principal counsel of record for Christopher Mitchell:

Thomas H. Johnson
410 Hickory
Texarkana, AR 71854
(870) 773-6359

Principal counsel for James Bradley Weems:

John F. Stroud III (deceased)

4. In *Johnson v. California*, 543 U.S. 499 (2004), the Supreme Court addressed the proper standard for reviewing California's policy of racially segregating its inmates in double cells in the State's prison reception centers. This case is significant because it held that strict scrutiny, rather than the more deferential "reasonably related" standard normally used to review the constitutionality of prison policies, was the proper standard of review for racial classifications in the prison context. I represented the United States as amicus curiae.

As the line attorney assigned to this matter, I was responsible for preparing a draft of the government's brief supporting the African-American inmate who challenged the policy. The brief argued that strict scrutiny, rather than the more deferential "reasonably related to a legitimate penological interest" standard, applied to all racial classifications in prisons, including housing policies. The brief also argued that California's policy of segregating its inmates violated the Equal Protection Clause, because it was not narrowly tailored to its goal of minimizing violence in its prison reception centers. In addition to drafting the brief, I participated in litigation strategy meetings with other government components in the Office of the Solicitor General and attended moot courts for then-Deputy Solicitor General Paul D. Clement.

Relying heavily on the government's brief, the Supreme Court agreed that strict scrutiny was the proper standard but declined to rule on the constitutionality of the policy. Instead, it reversed and remanded the case to the Ninth Circuit to be reevaluated under the proper standard.

The case was heard by the 2004-2005 members of the United States Supreme Court except Chief Justice Rehnquist, who took no part in the decision.

Dates of representation: March 2004-February 2005

Co-counsel:

Diana K. Flynn
Lambda Legal
1776 K Street, NW, 8th Floor

Washington, DC 20006-2304
(202) 804-6245

David Salmons
Morgan Lewis
1111 Pennsylvania Ave. NW
Washington, DC 20004-2541
(202) 373-6283

Paul D. Clement
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, NW
Washington, DC 20004
(202) 389-5000

Principal counsel for Garrison S. Johnson:

Bert H. Deixler
Kendall Brill & Kelly LLP
10100 Santa Monica Boulevard, Suite 1725
Los Angeles, CA 90067
(310) 272-7910

Principal counsel for California:

Frances T. Grunder
PO Box 242523
Anchorage, AK 99524
Phone number unknown

5. *United States v. Allen, et al.*, 341 F.3d 870 (9th Cir. 2003), *cert. denied*, 541 U.S. 975 (2004), involved the Department's prosecution of six members of a white supremacist, neo-Nazi skinhead organization affiliated with the Aryan Nations. Among other offenses, the jury found the defendants guilty of violating 18 U.S.C. 245(b)(2)(B) for carrying out a "park patrol," whereby the defendants chased racial minorities out of a public park while wielding weapons and yelling racial epithets (Section 245 is the precursor to the Hate Crimes Prevention Act of 2009). This case is significant because it resulted in a published Ninth Circuit decision upholding the constitutionality of Section 245(b)(2)(B) and ruling favorably for the government on a number of other contested issues. I represented the United States as appellee.

As the line attorney assigned to this appeal, I was responsible for mastering the extensive record, preparing the Department's consolidated appellee brief responding to arguments raised by six different defendants, and arguing the case before the Ninth Circuit. I also drafted the government's opposition to a petition for a writ of certiorari.

The Ninth Circuit affirmed the defendants' convictions and sentences. Most significantly, the court issued a lengthy published opinion upholding the constitutionality of Section 245(b)(2)(B) as a valid exercise of Congress's authority under the Commerce Clause and the Thirteenth Amendment, issues of first impression in the circuit. Adopting the government's arguments, the court agreed that both constitutional provisions give Congress the power to prohibit racially motivated criminal interference with federally protected rights. The court also ruled in the government's favor with respect to the admission of evidence relating to the defendants' skinhead membership and white supremacist views, the sufficiency of the evidence on various counts, and the calculation of the defendants' sentences. The Supreme Court subsequently denied certiorari.

The case was heard by Ninth Circuit Judges Paez and Tashima and by Fifth Circuit Judge Reavley sitting by designation.

Dates of representation: June 2002-August 2003

Co-counsel:

Jessica Dunsay Silver
6829 Wilson Lane
Bethesda, MD 20817
(301) 229-2295

Principal counsel for Sean Allen:

Robert L. Kelleher
230 Grand Ave
Billings, MT 59101
(406) 252-8521

Principal counsel for Eric Dixon:

Wendy Holton
7 West 6th Avenue
Suite 4-N
Helena, MT 59601
(406) 442-9349

Principal counsel for Ryan Flaherty:

Palmer A. Hoovestall
40 West 14th Street, Suite 4A
P.O. Box 747
Helena, MT 59624-0747
(Phone number unknown)

Principal counsel for Michael Flom:

Larry Jent
 Williams & Jent LLP
 506 East Babcock Street
 Bozeman, Montana, 59715
 (406) 586-1373

Principal counsel for Jason Potter:

Penelope S. Strong
 2517 Montana Avenue
 Billings, MT 59101
 (406) 839-9220

Principal counsel for Jeremiah Skidmore:

Lynn T. Hamilton
 240 North Center Street
 Mesa, AZ 85201
 (480) 545-5511

18. **Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).**

1. A large percentage of my practice has involved the filing of amicus briefs in the United States Supreme Court, the federal courts of appeals, and, on rare occasion, state supreme courts. While I consider all of the United States' amicus briefs significant, I believe that the briefs that I have filed addressing access to justice issues – specifically, the right to counsel and the standard for determining the constitutionality of a municipal bail practice – have been especially significant, particularly because they represented the first time the Solicitor General of the United States had authorized positions on such issues.

In *Keren v. Luzerne County*, 146 A.3d 715 (Pa. 2016), for example, I provided leadership in securing authorization from the Solicitor General to file an amicus brief in support of indigent individuals facing criminal charges in Pennsylvania who were challenging the constitutionality of the State's indigent defense system. The internal authorization process presented a number of challenges due to conflicting interests among the Department's various litigating divisions and policy offices, but we eventually reached a consensus on a test for determining when a civil claim for systemic, prospective relief is viable to remedy a constructive denial of counsel in violation of the Sixth Amendment. Specifically, we argued that such a claim is viable when (1) on a system-wide basis, the traditional markers of representation—such as timely and confidential consultation with clients, appropriate investigation, and meaningful adversarial

testing of the prosecution's case—are absent or significantly compromised; and (2) substantial structural limitations—such as a severe lack of resources, unreasonably high workloads, or critical understaffing of public defender offices—cause that absence or limitation on representation. The Pennsylvania Supreme Court agreed and adopted this test as its holding (expressly citing the Department's amicus brief), reversing the lower courts' dismissal of the plaintiffs' complaint. We subsequently filed a similar brief in *Tucker v. Idaho*, 394 P.3d 54 (Idaho 2017).

In *Walker v. City of Calhoun*, 901 F.3d 1245 (11th Cir. 2018), cert. denied, 139 S. Ct. 1446 (2019), and *Walker v. City of Calhoun*, 682 Fed. App'x 721 (11th Cir. 2017), we filed two amicus briefs, one during the Obama Administration and another during the Trump Administration, that took the position that a bail practice (such as a fixed bail schedule) violates the Fourteenth Amendment if it results in the incarceration of indigent individuals without meaningful consideration of their ability to pay and of alternative methods of assuring their appearance at trial. I worked closely with attorneys from the former Office for Access to Justice to develop the Department's position and to ensure consistency in the Department's legal analysis from administration to administration. I also was heavily involved in drafting both amicus briefs, particularly our brief in the first appeal due to the assigned line attorney's absence from work in the weeks before the brief was due. The Eleventh Circuit eventually adopted the analysis advanced in the Department's amicus briefs, agreeing that the Fourteenth Amendment's equal protection and due process protections apply to a criminal defendant's claim of disparate treatment based on indigency. In addition, the Department's briefs have been cited by multiple jurisdictions in support of bail reform, including the State of Maryland.

2. In addition to the filing of amicus briefs, a large percentage of my practice also has involved policy work to expand and strengthen civil rights protections. Currently, for example, I am serving on detail as an Acting Deputy Assistant Attorney General, which includes a number of policy-related responsibilities, including overseeing the Division's implementation of the Servicemember and Veterans Initiative Act of 2020.

From 2013 to 2014, I served on an eight-month detail to the White House Domestic Policy Council, where I worked to advance President Obama's decision to prohibit discrimination against LGBT employees of federal contractors and with the White House Counsel's Office to support the federal government's implementation of the Supreme Court's decision striking down a provision of the Defense of Marriage Act. I also led an interagency effort to finalize the government's first-ever strategic action plan on services for victims of human trafficking and developed a policy directive to the Department of Justice to exercise its regulatory authority to make inflation-related adjustments for civil penalties available in civil rights actions.

From 2010 to 2012, I served on a 19-month detail to the Civil Rights Division's newly established Policy and Strategy Section, where I worked closely with the Acting Chief to launch the new office. I also was responsible for drafting and coordinating clearance of legislative proposals to amend eight different civil rights laws (including a legislative fix to the Supreme Court's *Sandoval* decision limiting enforcement of Title VI of the Civil Rights Act) and to provide technical assistance to the White House and congressional staffers on civil rights bills, including the nondiscrimination provision of the Violence Against Women Act. I also authored policy reports on the Division's fair lending enforcement program and on the Division's efforts to address post-9/11 backlash discrimination.

Finally, from 2005 to 2006, I served on detail to the Senate Judiciary Committee, where, among other things, I worked with staffers on both sides of the aisle to organize hearings on reauthorization of the Voting Rights Act.

19. **Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.**

I have not held judicial office.

- A. **List all court decisions you have made which were reversed or otherwise criticized on appeal.**

None.

20. **Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).**

No.

21. **Political activities and affiliations.**

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

None.

- **List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.**

None.

- **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of \$50 or more.**

Based on a search of the FEC's campaign finance database:

\$50.00 to ActBlue (earmarked for Jon Ossoff for Senate) (November 29, 2020)

\$50.00 to ActBlue (earmarked for Warnock for Georgia) (November 29, 2020)

\$100.00 to ActBlue (earmarked for Georgia Federal Elections Committee) (November 12, 2020)

\$250.00 to Biden Fight Fund (November 11, 2020)

\$250.00 to Biden for President (August 17, 2020)

\$100.00 to Hillary for America (July 28, 2016)

22. **To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.**

No.

23. **Have you or any business of which you are or were an officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.**

No.

24. **Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.**

No.

II. POTENTIAL CONFLICTS OF INTEREST

- 1. Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?**

Yes.

- 2. Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

None.

- 3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

None.

- 4. Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.**

None.

- 5. Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

None.

- 6. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

No.

- 7. Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.**

I will resolve any potential conflicts of interest on a case-by-case basis in accordance with the District of Columbia Code of Judicial Conduct and any other relevant rules or procedures applicable to Associates Judges on the District of Columbia Court of Appeals.

8. If confirmed, do you expect to serve out your full term?

Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11 - 150 1 (b), as amended.

1. **Are you a citizen of the United States?**
Yes.
2. **Are you a member of the bar of the District of Columbia?**
Yes.
3. **Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.**
Yes; I was admitted to the District of Columbia bar on July 9, 2001.
4. **If the answer to Question 3 is “no” –**
 - A. **Are you a professor of law in a law school in the District of Columbia?**
 - B. **Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?**
 - C. **Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?**
 - D. **Upon what grounds is that eligibility based?**
5. **Are you a bona fide resident of the District of Columbia?**
Yes.
6. **Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.**
Yes. Since 2013, I have resided at [REDACTED]
[REDACTED] **REDACTED**
7. **Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?**

No

- 8. Have you been a member of either of these Commissions within the last 12 months?**

No

- 9. Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.**

My Judicial Nomination Commission questionnaire is attached.

AFFIDAVIT

Tovah R. Calderon, being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Tovah R Calderon

SUBSCRIBED and SWORN TO before me this 11th day of June 21 2021.

District of Columbia
Signed and sworn to (or affirmed) before me
on 6/11/2021 by TOVAH R CALDERON Notary Public
Date Name(s) of Individual(s) making Statement
[Signature]
Signature of Notarial Officer

Title of Office
My commission expires: 08/31/2025



**Senator Rand Paul
Post-Hearing Questions for the Record
Submitted to Tovah R. Calderon**

**Nominations of Tovah R. Calderon to be an Associate Judge, District of Columbia Court of Appeals, and Kenia Seoane Lopez, Rupa R. Puttagunta, and Sean C. Staples to be Associate Judges, Superior Court of the District of Columbia
Tuesday, September 14, 2021**

1. As an Associate Judge of the District of Columbia Court of Appeals, will you abide by the following statement?: “The Second Amendment right is exercised individually and belongs to all Americans.”

Response: I agree to abide by the Supreme Court’s holding in *District of Columbia v. Heller*, 554 U.S. 570, 635 (2008), that “the Second Amendment conferred an individual right to keep and bear arms.”

**Senator James Lankford
Post-Hearing Questions for the Record
Submitted to Tovah R. Calderon**

**Nominations of Tovah R. Calderon to be an Associate Judge, District of Columbia Court of Appeals, and Kenia Seoane Lopez, Rupa R. Puttagunta, and Sean C. Staples to be Associate Judges, Superior Court of the District of Columbia
Tuesday, September 14, 2021**

- 1) At the outset of the pandemic, Congress included eviction protection in the CARES Act. When those protections expired, the CDC issued an eviction moratorium which took effect on September 4, 2020. That rule was challenged and reached the Supreme Court. On June 29, 2021 the Court left the moratorium in place, but noted that “congressional authorization (via new legislation) would be necessary for the CDC to extend the moratorium past July 31.” Despite the Supreme Court’s warning, President Biden attempted to extend the moratorium. On August 26, 2021, the Supreme Court vacated the moratorium because it exceeded CDC’s statutory authority. The District of Columbia provided eviction protection beyond that provided by the CDC.

As the District’s eviction moratorium begins to phase out and evictions may resume next year, how will you balance the rights of landlords who, in some situations, have not received rent in over a year and a half, with the interests of tenants who seek a safe place to live?

Response: These are important questions, because, as noted in the question, landlords and tenants both have interests and rights that may need to be protected. My approach will be to apply any applicable federal and D.C. laws, including any newly enacted laws and relevant court precedents, to the facts of the cases that come before me.

Will you apply the law to the facts, or will other consideration influence your decision making?

Response: I will apply the law to the facts.

- 2) What do you see are the largest or most significant criminal issues currently in D.C.? And as a judge, what can you do to be able to help in that area?

Response: As a D.C. resident, I care deeply about the District and want the city to be a safe place to live for as many residents as possible. As a judicial nominee, I am aware that my role, if confirmed, would be limited to deciding only the cases that come before me based on the facts in the record, the applicable law, and in consideration of the arguments of the parties. In addition, I would take very seriously my responsibility to decide criminal cases as expeditiously possible. The responsibility for addressing crime in D.C. on a broader, more systemic level lies with the City’s policymakers.

- 3) What do you consider one of the most critical areas that you can serve D.C. while you're on the bench?

Response: As discussed at the hearing, D.C. courts currently face a backlog of cases, which is due in part to the large number of judicial vacancies and, in the Court of Appeals, to the lack of an intermediate appellate court. If confirmed, I could best serve D.C. by being prepared to hit the ground running on day one and by working hard and efficiently while on the bench to ensure that justice is not delayed.

- 4) You have worked for several different administrations, have you ever been asked to work on a brief or make an argument you disagreed with? How did you handle that situation?

Response: As a Department of Justice attorney, my obligation is to represent the interests of the United States. Accordingly, my approach always has been to set aside any personal views that I may have about a particular case and to focus solely on making arguments consistent with the rule of law in support of my client's interests.

- 5) In *Bostock v. Clayton County, GA*, the Supreme Court held that "an employer who fires an individual merely for being gay or transgender" violates Title VII's prohibition on discrimination on the basis of sex.

Is it your belief that the interpretation of the definition of sex in Title VII as decided under *Bostock* also applies to other areas of civil rights law, such as Title IX and the Fair Housing Act?

Response: Although it is unlikely that this question of federal law would come before me if confirmed to serve as an Associate Judge of the District of Columbia Court of Appeals (especially because the D.C. Human Rights Act expressly prohibits discrimination on the basis of sexual orientation and gender identity or expression), my approach would be to apply any precedent from the Supreme Court, if and when it decides these questions. In the meantime, I am aware of one federal court of appeals decision applying *Bostock* to Title IX, see *Grimm v. Gloucester County*, 972 F.3d 586, 616 (4th Cir. 2020), and none applying it to the Fair Housing Act.

- 6) At the end of the Trump Administration, DOJ drafted a memo outlining their interpretation of the scope of *Bostock*. The Biden Administration immediately removed that memo from DOJ's website. Did you have anything to do with the decision to pull down that memo?

Response: No.

Senator Josh Hawley
Post-Hearing Questions for the Record
Submitted to Tovah R. Calderon

Nominations of Tovah R. Calderon to be an Associate Judge, District of Columbia Court of Appeals, and Kenia Seoane Lopez, Rupa R. Puttagunta, and Sean C. Staples to be Associate Judges, Superior Court of the District of Columbia
Tuesday, September 14, 2021

1. What is your understanding of the holding of *Church of the Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520 (1993)?

Response: In *Lukumi*, the Supreme Court held that the City of Hialeah's ordinances addressing the ritual slaughter of animals violated the Free Exercise Clause of the First Amendment. In so holding, the Court applied the rule articulated in *Employment Div., Dept. of Human Resources of Ore. v. Smith*, 494 U.S. 872 (1990), "that a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular religious practice." *Lukumi*, 508 U.S. at 529. It also explained that "[a] law burdening religious practice that is not neutral or not of general application must undergo the most rigorous of scrutiny." *Id.* at 546. The Court concluded, first, that the Hialeah ordinances were not neutral because they "had as their object the suppression of religion" (specifically, the Santeria religion). *Id.* at 542. Second, and relatedly, the Court concluded that the ordinances were not of general applicability because they "pursue[d] the city's governmental interests only against conduct motivated by religious belief" (specifically, the Santeria practice of sacrificing animals). *Id.* at 545. Finally, the Court concluded that the ordinances failed strict scrutiny because the City lacked a compelling interest in preventing the ritual slaughter of animals, and, in any event, the ordinances were not narrowly tailored to the City's asserted interests in protecting the public health and preventing cruelty to animals because they were "overbroad or underinclusive in substantial respects." *Id.* at 546.

2. What is your understanding of the holding of *Brnovich v. Democratic National Committee*, 594 U.S. __ (2021)?

Response: In *Brnovich*, the Supreme Court held that Arizona's policy of requiring election officials to discount a ballot if it was cast at the wrong precinct and its ban on collecting and delivering another person's mail-in ballot do not violate Section 2 of the Voting Rights Act of 1965. *See* 141 S. Ct. 2321, 2343-2344 (2021).

3. What is your understanding of the holding of *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. __ (2021)?

Response: In *Cuomo*, the Court granted an application to enjoin a gubernatorial order that restricted attendance at religious services in certain geographic areas. *See* 141 S. Ct. 63, 69 (2020). In so doing, the Court concluded that the applicants were likely to succeed in

showing that the restrictions violated their rights under the Free Exercise Clause of the First Amendment. The Court explained that the restrictions violated the neutrality test under *Lukumi* (discussed in my response to Question 1) because they targeted the ultra-Orthodox Jewish community. *See id.* at 66. The Court further explained that, “even put[ting] those comments [targeting the ultra-Orthodox Jewish community] aside,” the restrictions “cannot be viewed as neutral because they single out houses of worship for especially harsh treatment” compared to “businesses categorized as ‘essential.’” *Ibid.* The Court also explained that the restrictions were not narrowly tailored to the Governor’s interest in stemming the spread of COVID-19, because they were tighter than restrictions adopted by other jurisdictions and more severe than necessary to prevent the spread of the virus, and because there were “many other less restrictive rules that could be adopted.” *Id.* at 67.

4. What is your understanding of the holding of *South Bay United Pentecostal Church v. Newsom*, 592 U.S. ___ (2021)?

Response: In *Newsom*, the Court denied an application to enjoin enforcement of a gubernatorial order limiting attendance at places of worship to 25% of building capacity or to a maximum of 100 attendees. The Court did not publish a majority opinion explaining its reasoning, however, a concurring opinion by Chief Justice Roberts explained that the restrictions “appear consistent with the Free Exercise Clause of the First Amendment” because “[s]imilar or more severe restrictions apply to comparable secular gatherings, including lectures, concerts, movie showings, spectator sports, and theatrical performances, where large groups of people gather in close proximity for extended periods of time.” 140 S. Ct. 1613 (2021) (Roberts, C.J., concurring).

5. At your hearing before the Committee, you suggested that *Roman Catholic Diocese of Brooklyn v. Cuomo* and *South Bay United Pentecostal v. Newsom* altered the existing legal framework for evaluating certain religious discrimination claims.

Response: At my hearing, I referred to “recent cases” of the Supreme Court but did not cite these cases or any other specific cases.

- a. What do you believe was the framework for evaluating religious discrimination claims before these cases?

Response: As set forth in my response to Question 1, the Supreme Court has held that “a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular religious practice.” *Lukumi*, 508 U.S. at 529 (citing *Employment Div., Dept. of Human Resources of Ore. v. Smith*, 494 U.S. 872 (1990)). The Court also has explained that “[a] law burdening religious practice that is not neutral or not of general application must undergo the most rigorous of scrutiny.” *Id.* at 546.

- b. What do you believe is the current framework for evaluating religious discrimination claims?

Response: In *Fulton v. City of Philadelphia*, 141 S. Ct. 1868 (2021), the Court declined to overrule *Smith* and applied the framework set forth in *Lukumi*.

6. The First Amendment of the United States Constitution protects the free exercise of religion.

- a. Under Supreme Court and District of Columbia precedent, what is the legal standard used to evaluate a claim that a facially neutral state governmental action is a substantial burden on the free exercise of religion? Please cite any cases you believe would be binding precedent.

Response: In *Tandon v. Newsom*, 141 S. Ct. 1294 (2021), the Supreme Court enjoined California's COVID-19 restrictions on private gatherings. In so doing, it explained that "government regulations are not neutral and generally applicable, and therefore trigger strict scrutiny under the Free Exercise Clause, whenever they treat *any* comparable secular activity more favorably than religious exercise." *Tandon*, 141 S. Ct. at 1296 (emphasis in original). It also explained that "whether two activities are comparable for purposes of the Free Exercise Clause must be judged against the asserted government interest that justifies the regulation at issue." *Ibid*. Finally, it explained that the government has the burden to establish that the challenged law satisfies strict scrutiny, and that "[t]o do so in this context, it must do more than assert that certain risk factors 'are always present in worship, or always absent from the other secular activities' the government may allow." *Ibid*. Instead, the Court explained, "narrow tailoring requires the government to show that measures less restrictive of the First Amendment activity could not address its interest in reducing the spread of COVID. Where the government permits other activities to proceed with precautions, it must show that the religious exercise at issue is more dangerous than those activities even when the same precautions are applied." *Id.* at 1296-1297.

- b. Under Supreme Court and District of Columbia precedent, what is the legal standard used to evaluate a claim that a state governmental action discriminates against a religious group or religious belief? Please cite any cases you believe would be binding precedent.

Response: Please see my responses to Questions 5.a and 5.b.

- c. What is the standard in the District of Columbia for evaluating whether a person's religious belief is held sincerely?

Response: In *Smith*, the Supreme Court explained that "[i]t is not within the judicial ken to question the centrality of particular beliefs or practices to a faith, or the validity of particular litigants' interpretations of those creeds,"

cautioning that “courts must not presume to determine the place of a particular belief in a religion or the plausibility of a religious claim.” 494 U.S. at 887.

7. What is your understanding of the Supreme Court’s holding in *District of Columbia v. Heller*, 554 U.S. 570 (2008)?

Response: In *Heller*, the Supreme Court held that “the Second Amendment conferred an individual right to keep and bear arms,” 554 U.S. at 635, and that D.C.’s “ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense.” 554 U.S. at 635.

8. Please state whether you agree or disagree with the following statement and explain why: “Absent binding precedent, judges should interpret statutes based on the meaning of the statutory text, which is that which an ordinary speaker of English would have understood the words to mean, in their context, at the time they were enacted.”

Response: If confirmed to serve as an Associate Judge of the D.C. Court of Appeals, I agree to follow the approach of the Supreme Court and the D.C. Court of Appeals. The Supreme Court “normally interprets a statute in accordance with the ordinary public meaning of its terms at the time of its enactment.” *Bostock v. Clayton County*, 140 S. Ct. 1731, 1738 (2020). The D.C. Court of Appeals has stated that “[w]hen the terms of a statute are undefined and not recognized terms of art, we presumptively accord them their ordinary meaning in common usage, taking into account the context in which they are employed; but ‘[w]hen a legislature defines the language it uses, its definition is binding upon the court even though the definition does not coincide with the ordinary meaning of the words.’” *Hood v. United States*, 28 A.3d 553, 559 (D.C. 2011) (citations omitted).

September 13, 2021

The Honorable Gary Peters, *Chairman*
U.S. Senate Committee on Homeland Security & Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Rob Portman, *Ranking Member*
U.S. Senate Committee on Homeland Security & Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Peters and Ranking Member Portman,

We write in support of Tovah Calderon's nomination to serve as an associate judge on the D.C. Court of Appeals. We are a group of former career employees who served alongside Tovah at the Department of Justice. We vary significantly in the roles we held at DOJ—some of us were managers who supervised Tovah, others were her peers in the Civil Rights Division or other offices that worked closely with her, and still others were junior attorneys and staff she supervised or mentored. We also have a variety of views on political and legal issues, but we share a common belief that Tovah's sheer ability as a lawyer, collegiality, and wealth of experience make her an excellent choice for this judgeship.

We have witnessed firsthand Tovah's intellect, work ethic, high professional and ethical standards, and commitment to rigorous legal analysis. Tovah is a consummate public servant, having spent her entire career working in government, primarily in the Department of Justice's Civil Rights Division. She started more than two decades ago as a line attorney in the Appellate Section, handling a broad range of criminal and civil matters. In that role, she briefed and argued some of the Section's most difficult cases, including a significant en banc appeal before the Fifth Circuit, and was awarded the Division's Walter W. Barnett Memorial Award for Excellence in Advocacy in 2008. She was promoted to management in the Appellate Section, where she worked diligently to ensure that the Section's written work product and advocacy were top notch. She also worked closely with the Office of the Solicitor General on developing the United States' positions before the U.S. Supreme Court and Courts of Appeals, improved the Section's operations, and fostered an inclusive and supportive workplace culture.

Based on our front-row seats to Tovah's remarkable career, we are confident that she has the intellect, ability, and temperament to serve as an associate judge. As a career attorney, Tovah has served under political leadership that had different approaches to the law. Through it all, she has demonstrated an unwavering commitment to fairness, impartiality, and the rule of law. Combined with her tireless work ethic and her editing and writing skills, these qualities will allow Tovah to serve the District of Columbia and our nation with distinction as a judge. We enthusiastically support her nomination and urge the Senate to confirm her.

Respectfully,

Anthony F. Archeval
Anurima Bhargava
Trevor S. Blake II
Jeffrey Blumberg
Dennis Dimsey
Diana Flynn
Jeffrey A. Gelber
Mark Gross
Shelley R. Jackson
Deeana Jang
Maha Jweied
Ayesha N. Khan
Robert A. Koch
Douglas N. Letter
Rachel Levinson-Waldman
Marie K. McElderry
Judy Preston
Kevin K. Russell
Nicole A. Saharsky
Sasha Samberg-Champion
Aaron Schuham
Melissa Arbus Sherry
Jessica Dunsay Silver
Vikram Swaruup
Linda F. Thome
Zachary D. Tripp
James Walsh
Allie Yang-Green
Dayna Zolle

**Opening Statement of Rupa Ranga Puttagunta
Nominee to be Associate Judge of the District of Columbia Superior Court**

Mr. Chairman and members of the Committee, I am humbled and grateful to appear before you today as a nominee to be an Associate Judge of the Superior Court for the District of Columbia. I would like to thank each of you for considering my nomination, and the Committee's staff for their hard work in preparing for this hearing. I thank the D.C. Judicial Nomination Commission and its chair, Judge Emmet Sullivan, for recommending me to the White House. I thank President Joseph Biden for nominating me. I would also like to recognize Chief Judge Michael Spencer of the D.C. Rental Housing Commission for his unflinching support and encouragement, and Judges William Jackson, Todd Edelman, and Rainey Brandt of D.C. Superior Court for their mentorship and guidance.

I would like to take a moment to introduce my husband, Shiva Nagaraj. I would not be sitting here today without his patience, support, and encouragement. We are blessed to have two children, four-year-old Anya and 6-month Taran. They bring endless joy and purpose to my life, and inspire me every day to do good, to be better, to work harder. Being a mother and a wife is my greatest accomplishment, and I cannot imagine this journey without them by my side.

I reserve a special thanks to the elders in my life. When my mother, Dr. Punnama Kalapala, unexpectedly passed away when I was five-years-old, an entire community stepped up and supported my family so that I never felt the sting of such a loss. Many of you are watching this hearing live; with you I share all of my accomplishments. I thank my late grandparents, Visweswarao and Seetamma Puttagunta, who inspired me to go to law school. I thank Sheshigiri and Sandhya Rani Kalapala for sharing their home with my family; I am forever grateful for your guidance. I thank my in-laws, Krishnaswamy and Vimala Nagaraj, who are always so kind and generous with their love. Above all, I thank my parents, Dr. Ranga Puttagunta, Bharati Ranga Puttagunta, and Dr. Punnama Kalapala, for their love, sacrifice, and hard work. You have given me your everything. Whatever is best in me that I have to offer, I owe to you.

I care deeply about the D.C. Superior Court as a forum for all parties to be fairly heard. For many years, I worked in Superior Court every day—it is the courthouse where I learned how to practice law. I have profound admiration for the judges, the attorneys, and the staff of the Court. In particular, I appreciate how committed the Court's bench and administration are to serving justice. The judges I observed were patient, kind, and respectful and they went out of their way to ensure that even the most vulnerable litigant felt heard. They maintained fidelity to the law and issued rulings fairly and impartially. These are the values that guide me in my current role as an appellate Administrative Judge, and if confirmed, I would uphold these values in Superior Court as well.

My father grew up in poverty in India and came to this country almost fifty years ago with seven dollars in hand. He was successful and was able to provide for his loved ones. He is a shining example of the "American Dream." I was raised to be thankful for every opportunity, to value the ethos of hard work, and most importantly, to always give back to the community. This is what inspired me to pursue a career in public service, to spend hundreds of hours providing *pro bono* services, to represent indigent criminal defendants, and most recently, to serve as an

Administrative Law Judge. It is what inspires me to pursue a vacancy in Superior Court: serving as an Associate Judge would be the ideal opportunity to use my skills and experience to continue contributing to the D.C. community where I have resided for fourteen years.

Thank you for considering my nomination. I look forward to answering any questions the Committee might have about my qualifications.

REDACTED

QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

1. **Full name (include any former names used).**
Rupa Ranga Puttagunta
2. **Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).**
United States of America
3. **Current office address and telephone number.**
District of Columbia Rental Housing Commission
441 4th Street, NW, Suite 1140B North
Washington, D.C. 20001
4. **Date and place of birth.**
June 19, 1981; Lima, Ohio
5. **Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**
I am married to Shivaprasad Nagaraj, an attorney at the Consumer Financial Protection Bureau, 1700 G Street NW, Washington, D.C. 20552.
6. **Names and ages of children. List occupation and employer's name if appropriate.**

████████████████████

REDACTED

████████████████████

7. **Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.**

Degree Programs:

2004 – 2007, The Ohio State University Moritz College of Law; J.D., 2007

1998 – 2002, Vassar College; B.A., 2002

1996 – 1998, The Andrews School for Girls; Secondary Diploma, 1998

Non-Degree/Summer/Elective Programs:

Summer 2005, The University of Florida Levin College of Law; No Degree Awarded (Summer Program)

August 2002 – December 2002, The George Washington University; No Degree Awarded (Completed a Chemistry Class)

Summer 2000, The Wright State University; No Degree Awarded (Certificate Coursework on Web Design)

Summer 1999, University of Cambridge; No Degree Awarded (Summer Program)

8. **Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

Affiliations (Compensated)

May 2006 (Estimated) – August 2006 (Estimated)
Dykema Gossett, PLLC
400 Renaissance Center
Detroit, MI 48243
Summer Associate

April 2004 (Estimated) – June 2004 (Estimated)
Starbucks
3000 Connecticut Avenue, NW
Washington, D.C. 20008
Barista, Part-time

August 2002 (estimated) – January 2004 (Estimated)
CapAnalysis (No Longer Operational)
1299 Pennsylvania Avenue, NW
Washington, D.C. 20004
Economic Analyst

Other Affiliations (Uncompensated)

January 2008 (Estimated) – April 2008 (Estimated)
Senior Judges Morrison, Wynn, Winfield, Milliken, Beaudin, Dorsey, Hamilton,
Wertheim
District of Columbia Superior Court
500 Indiana Avenue, NW
Washington, D.C. 20001
Legal Intern

January 2007 – May 2007
Federal Public Defender's Office for the Southern District of Ohio
10 W Broad Street, #1020
Columbus, OH 43215
Law Clerk

January 2007 – May 2007
The Honorable Jeffrey S. Sutton
United States Court of Appeals for the Sixth Circuit
85 Marconi Blvd
Columbus, OH 43215
Legal Extern

January 2006 – May 2006
The Ohio State University Law School
55 West 12th Avenue
Columbus, OH 43210
Research Assistant for Professor Larry Garvin

January 2006 – May 2006
Franklin County Public Defender's Office
373 South High Street, 12th Floor
Columbus, OH 43215
Law Clerk

August 2005 – December 2005
Legislative Service Commission
77 S High Street, Ninth Floor
Columbus, OH 43215
Legal Intern

January 2004 (Estimated) – May 2004 (Estimated)
Senator Ron Wyden
221 Dirksen Senate Office Building
Washington, D.C. 20510
Intern

9. **Honors and awards. List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.**

District of Columbia Capital Pro Bono Honor Roll (2012)

The Ohio State Moritz College of Law Dean's Special Recognition as a Public Service Fellow (2007)

The Joanne Wharton Murphy Award from The Ohio State Moritz College of Law Women's Legal Society (2004)

The Ohio State University Enrichment Grant & Academic Promise Award (2004)

10. **Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.**

None.

11. **Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.**

National Association of Women Judges (2019 – present)
Law School Outreach Committee (August 2020 – present)
Administrative Judiciary Committee (December 2020 – present)

Superior Court CJA Panel Advisory Committee (2016 – 2018)

Superior Court Traffic Duty Panel (2014 – 2018)

South Asian Bar Association of Washington, D.C. (2008 – present (intermittent))

Superior Court Trial Lawyers Association (2013 – 2018)

Women's Bar Association of the District of Columbia (2008 – 2020)

Washington Bar Association (2019 – 2020)

District of Columbia Bar Foundation Young Lawyers Network Leadership Council
Leadership Council (2013 – 2015)
Go Formal Steering Committee (2014)

District of Columbia Bar Family Law Section Steering Committee's Domestic Relations
Subcommittee (2012 – 2013)

William B. Bryant Inn of Court (2010 – 2011)

- 12. Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.**

Asian Pacific Islander Domestic Violence Resource Project
Board Member (March 2020 – present)
Fundraising Chair (April 2020 – Present)

1923 Condo Association
Secretary (2019 – present; 2012 – 2014)
Treasurer (2014 – 2019)

District of Columbia Kuchipudi Collective
Co-Founder (2016 – present)

The Washington Ballet
Jetè Society (Young Professionals) (2014 – 2015)

- 13. Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.**

District of Columbia Bar, 2010

Maryland Bar, 2008 – 2020 (inactive)

After becoming a District of Columbia judge in 2019, I applied for inactive status with the Maryland Bar. I received inactive status in July 2020. There have, otherwise, been no other lapses in membership.

- 14. Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.**

None.

15. **Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.**

None.

16. **Legal career.**

- A. **Describe chronologically your law practice and experience after graduation from law school, including:**

- (1) **Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;**

From May 2008 to May 2010, I served as a law clerk to
The Honorable William M. Jackson, District of Columbia Superior Court.

From September 2010 to August 2011, I served as a law clerk to
Senior Judges Ferren, Steadman, Nebeker, Belson, Farrell, Pryor,
Newman, Terry, Wagner, Kern, King, and the late Judge Schwelb, District
of Columbia Court of Appeals.

- (2) **Whether you practiced alone, and if so, the addresses and dates;**

From August 2013 to January 2019, I practiced alone at Ranga Law
503 D Street, NW, Suite 250, Washington, D.C. 20001.

- (3) **The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.**

April – May 2008
Clutch Group (No Longer Operational)
529 14th Street, NW #440
Washington, D.C. 20045
Document Review Contract Attorney

October – November 2011
Lexolution
1101 17th Street Ave, NW, Suite 412
Washington, D.C. 20005
Document Review Contract Attorney

Fall 2011
Hannon Law Group

333 8th Street, N.E.
Washington, D.C. 20002
Temporary Attorney

January 2012 – July 2013
Delaney McKinney, LLP (Dissolved)
5425 Wisconsin Avenue, #401
Chevy Chase, MD 20815
Family Law Trial and Appellate Attorney

September 2013 – December 2013
The Maryland Office of the Public Defender
191 E Jefferson Street
Rockville, MD 20850
Volunteer Attorney

January 2019 – present
District of Columbia Rental Housing Commission
441 4th Street, NW, Suite 1140B North
Washington, D.C. 20001
Administrative Judge

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

From 2008 to 2010, I clerked for the Honorable William M. Jackson, then-Presiding Judge of the District of Columbia Superior Court's Family Court, and from 2010 to 2011, I clerked for the Senior Judges at the District of Columbia Court of Appeals.

Following my clerkships, from 2012 to 2013, I worked at Delaney McKinney, LLP, a family law firm where I handled domestic relations cases and civil protection order cases before the District of Columbia Superior Court.

From 2013 to 2019, I served on the Criminal Justice Act Panels of the District of Columbia Superior Court and District of Columbia Court of Appeals, representing indigent criminal defendants on trial and appeal. During this time, I managed a high-volume trial and appellate practice. In addition, I served on the District of Columbia Superior Court traffic duty day panel, where I managed traffic arraignments.

Since January 2019, as one of three Administrative Judges at the District of Columbia Rental Housing Commission, I serve as an appellate judge resolving housing appeals taken from the District of Columbia Office of Administrative Hearings. I preside over oral argument and draft and issue opinions. I also work on the Commission's rulemakings, and have helped issue, revise, and rescind the rent stabilization regulations. In connection with the rulemakings, I engage with District of Columbia government agencies and consider the views of other stakeholders.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

Over the course of my career, I have represented a diverse set of clients and specialized in housing, criminal, and family law. While clerking for Judge William Jackson, I observed juvenile and abuse and neglect cases. I then worked at Delaney McKinney, LLP, a family law firm, where I specialized in all areas of family law including divorce and property division, child custody, child support, alimony, and civil domestic violence. Following my tenure at Delaney McKinney, LLP, I served on the Criminal Justice Act panels of the District of Columbia Superior Court and the District of Columbia Court of Appeals, representing indigent criminal defendants on trial and appeal. I handled all types of criminal cases including traffic, misdemeanor, and felony cases. I also handled domestic violence cases. My clients included indigent individuals. Now, as an Administrative Judge at the District of Columbia Rental Housing Commission ("Commission"), I resolve housing appeals. Litigants that appear before the Commission include those proceeding *pro se*, large corporate entities and small business owners.

D. Describe the general nature of your litigation experience, including:

- (1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.**

From 2008 to 2010, I served as a law clerk in the District of Columbia Superior Court where I frequently observed court. I served as a law clerk from 2010 to 2011, at the District of Columbia Court of Appeals where I regularly attended oral argument. From 2011 to 2013, I worked at a civil firm and a family law firm. During this time, I appeared in the District of Columbia Superior Court as well as Montgomery County Circuit Court. In 2013, I established my own law firm, became a member of the District of Columbia Court of Appeals Criminal Justice Act ("CJA") panel, and started working on criminal appellate matters. I also volunteered in the Montgomery County Public Defender's Office, where I frequently went to Montgomery County District Court and shadowed counsel of record. In 2014, I was selected to serve on the District of Columbia Superior Court CJA panel and I established a high-volume trial court practice. Shortly thereafter, I started to frequently appear in court. From 2014 to 2019, while maintaining a high-volume trial practice, I appeared in the District of Columbia Superior Court almost every day. From 2019 to present, I have been serving as an Administrative Judge at the District of Columbia Rental Housing Commission; I no longer litigate cases myself, but I regularly preside over the Rental Housing Commission's oral arguments.

- (2) What percentage of these appearances was in:**

(a) **Federal courts (including Federal courts in D.C.);**

0%

(b) **State courts of record (excluding D.C. courts);**

Approximately 5%

(c) **D.C. courts (Superior Court and D.C. Court of Appeals only);**

Approximately 95%

(d) **other courts and administrative bodies.**

0%

(3) **What percentage of your litigation has been:**

(a) **civil;**

Approximately 15%

(b) **criminal.**

Approximately 85%

(4) **What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.**

I tried 20 cases to verdict or judgment as sole or chief counsel and 3 cases as second chair.

(5) **What percentage of these trials was to**

(a) **a jury;**

Approximately 15%

(b) **the court (include cases decided on motion but tabulate them separately).**

Approximately 85%

17. **Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.**

(1) *United States v. Jerrame Watts*, 2017 CF2 021142 (D.C. Superior Court, Judge Demeo)

In 2018, I was lead counsel for Mr. Watts, who was charged with unlawful possession of a controlled substance with the intent to distribute while armed, possession of a firearm during a crime of violence, unlawful possession of a firearm, carrying a pistol without a license, possession of an unregistered firearm, unlawful possession of ammunition, and unlawful possession of drug paraphernalia. The government's case rested on the theory that police officers observed my client standing next to an individual in an alley that smelled of PCP, that my client fled upon seeing the officers, and that my client possessed, and subsequently abandoned, a bag that contained an unregistered firearm, a quantity of narcotics, and other contraband.

When I was appointed to represent Mr. Watts, he had already plead guilty with predecessor counsel, and he asked me to help him withdraw his plea. This case involved an intense focus on scientific DNA evidence that was used to exculpate Mr. Watts. DNA from the gun (found inside the bag) was traced to another individual – not Mr. Watts – who was listed in a government database that tracked prior offenders. Furthermore, video footage from the police officers' body worn cameras was used to question the officers' testimony that Mr. Watts had been carrying (and abandoned) the bag containing contraband. I successfully withdrew Mr. Watts' plea, presented the case before a jury, and introduced relevant pieces of DNA evidence over the government's objection. I handled every aspect of the case including investigation, pretrial litigation, identifying and designating experts, and litigating at trial including creating a trial strategy, giving an opening statement, cross-examining witnesses, conducting direct examinations, and closing. The jury acquitted Mr. Watts on all counts.

Trial Co-Counsel for Defense: Derrick Page
503 D Street, NW, Suite 300
Washington, D.C. 20001
202.747.4752
attorneypage@gmail.com

Counsel for Government: Kimberly Paschall
Assistant United States Attorney
555 4th Street, NW
Washington, D.C. 20530

202.252.1900

Kimberly.Paschall@usdoj.gov

- (2) *Elaine Jones v. United States*, 172 A.3d 888 (D.C. 2017) (D.C. Court of Appeals, Judges Glickman, Easterly, and Pryor)

In 2015 and 2016, I represented appellant, Ms. Jones, before the District of Columbia Court of Appeals. Ms. Jones was homeless and slept on a cardboard box at the McPherson Square Metro station. One evening, another homeless person – who was far bigger than Ms. Jones – objected to Ms. Jones’ presence. He yelled, kicked, and threw objects at her to get her to leave. When Ms. Jones ignored him, he put his feet next to her head on the cardboard box she used as a bed. Ms. Jones asked him to move his feet many times, but he refused. She then used her cigarette lighter to start a very small flame at the corner of the cardboard bed, hoping that it would cause him to remove his feet. When he ignored the flame and kept his feet on her box, Ms. Jones put the flame out. The flame caused no injury. For this conduct, the trial court convicted Ms. Jones of simple assault and attempted possession of a prohibited weapon.

I argued that Ms. Jones acted in defense of her property (the cardboard box), and that while her response was unorthodox, it was not an excessive use of force. I also argued that Ms. Jones fairly raised this defense at trial, and that the government failed to satisfy its burden of proving beyond a reasonable doubt that Ms. Jones did not act reasonably in defense of her property. Finally, I argued that Ms. Jones lacked the specific intent to use her cigarette lighter unlawfully and therefore, the conviction for attempted possession of a prohibited weapon could not stand. The court of appeals agreed with my arguments and reversed Ms. Jones’ convictions. This is the first case where a party prevailed on the defense of property defense before the District of Columbia Court of Appeals.

Counsel for Government: Lauren Bates
Assistant United States Attorney
555 4th Street, NW
Washington, D.C. 20530
202.252.1900
Lauren.Bates@usdoj.gov

- (3) *District of Columbia v. Andre Warner*, 2015 CTF 459 (D.C. Superior Court, Judge Edelman)

In 2015 and 2016, I was lead counsel for the defendant, Mr. Warner, who was charged with driving under the influence. Because this was Mr. Warner’s second DUI offense, a conviction would have led to mandatory jail time. On the night of the arrest, Mr. Warner consented to a breath test. The score was so high that, if admissible, it would have constituted *per se* guilt.

During pre-trial litigation, I raised an issue of first impression: whether the court should exclude Mr. Warner's breath test score based on the government's failure to comply with its procedures for administering the test. After consulting with experts, I briefed and argued that the breath test was scientific evidence, and that the government's failure to follow the procedures it enacted to safeguard the integrity of the test threatened the reliability and accuracy of the result. The court conducted a lengthy evidentiary hearing on this issue. After the hearing and prior to issuing a ruling, the court asked for further briefing, at which point the government offered, and Mr. Warner accepted, a plea to a lesser-included offense that waived jail time.

Co-Counsel: Shri Madhure
993 Inspiration Way
Ventura, CA 93001
202.997.5751
shrimadhure@gmail.com

Counsel for Government: Jeffrey Cargill
Assistant Attorney General for the District of
Columbia
441 4th Street, NW, Suite 1060-N
Washington, D.C. 20001
202.727.3399
Jeffrey.cargill@dc.gov

(4) *United States v. Irvin Westry*, 2016 DVM 1587 (D.C. Superior Court, Judge Smith)

In 2016 and 2017, I represented Irvin Westry, who was charged with two counts of simple assault and one count of attempted possession of a prohibited weapon, based on allegations that he brandished a weapon and assaulted two relatives while at a family gathering. Due to complicated intrafamily dynamics, this case required a careful and nuanced approach to investigating the allegations and overcoming barriers presented by recalcitrant witnesses. I handled all aspects of this litigation from arraignment to sentencing, including reviewing discovery, investigating the allegations, interviewing witnesses, arguing pre-trial motions, creating the trial strategy, and trying the case before a judge. During trial, I successfully admitted a portion of the 911 call over the government's hearsay objection. The court found Mr. Westry not guilty on one of the counts of simple assault, but guilty on the remaining two counts.

Opposing Counsel: Sitara Witanachchi
Assistant United States Attorney
555 4th Street, NW
Washington, D.C. 20530
202.252.1900
Sitara.witanachchi@usdoj.gov

(5) *Walker v. Walker*, 2012 DRB 3860 (D.C. Superior Court, Judge Clark)

In 2012 and 2013, I represented Mr. Walker, the father of three minor-children, seeking sole (legal and physical) custody of the children as well as a divorce from his spouse, Mrs. Walker. This was a complex domestic relations matter that was certified to the Domestic Relations I Calendar. It involved the interplay of challenging issues such as domestic violence, mental illness, abuse and neglect, and the special needs of the children, and required the complex application of these issues to the “best interest” standard that determines a custody dispute. Prior to this case, the parties had cross-filed petitions for a civil protection order (“CPO”), which was resolved by giving Mr. Walker sole custody of the children for the duration of the CPO. The District of Columbia Child and Family Services Agency had also investigated allegations that Mrs. Walker had abused the parties’ minor-children. In addition, one minor-child had spent a significant period of time at Children’s National Hospital and at the Psychiatric Institute of Washington. As the associate on the case, I handled much of the pretrial motions practice, drafted and filed an expert designation, and managed discovery. I conducted the investigation, helped create the theory of our case, and identified the evidence necessary to prevail at trial (exhibits and witnesses). I also drafted direct examinations of our expert witness and of Mr. Walker in preparation for a two and a half-day hearing on Mrs. Walker’s motions relating to access to the minor-children, *pendente lite* financial support, and other issues. The hearing did not go forward. I left the firm before this case concluded; the parties settled prior to trial.

Lead counsel: Margaret McKinney
McKinney Figini LLC
3 Bethesda Metro, Suite 700
Bethesda, MD 20814
301.818.9120

Opposing Counsel: Jeffrey Hannon
111 Rockville Pike #975
Rockville, MD 20850
301.340.9090

18. **Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).**

A significant portion of my responsibilities as an Administrative Judge at the District of Columbia Rental Housing Commission involves issuing, amending, and rescinding regulations designed to enforce the 1985 Rental Housing Act. When I joined the Commission, it had not issued regulations in over 30 years. During my tenure, we published proposed regulations for public notice and comment. The draft regulations

overhaul the current regulations and span almost 200 pages. In drafting the revised regulations, the Commission aimed to: (1) implement statutory changes in determining lawful rents; (2) implement and clarify the transfer of the evidentiary hearing function; (3) implement other statutory changes; (4) codify and conform the regulations to existing case law; (5) update and improve the operational and adjudicative procedures; and (6) clarify language and increase specificity. Along with the other two judges on the Commission and our staff attorney, I prepared the proposed regulations. I also reviewed public comments and participated in numerous inter-agency meetings to discuss the revisions with the District of Columbia Office of Administrative Hearings and the Rent Administrator.

In addition, I joined the Rental Housing Commission shortly after the District of Columbia Council clarified the Commission's status as an independent agency through legislation in 2018. On October 1, 2019, the Commission was established as an independent agency. I have assisted the Chief Judge of the Commission in creating an infrastructure that furthers the Commission's work and ensures its long-term viability. I have been particularly involved in creating the infrastructure relating to the Commission's judicial component, including establishing internal guidelines and timeframes within which cases are to be heard and resolved.

- 19. Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.**

Yes. Mayor Muriel Bowser appointed me to serve as one of the three administrative judges on the D.C Rental Housing Commission in January 2019. I was re-appointed in the fall of 2019, to serve through July 2022. The Commission is an intermediate appellate court that resolves appeals from the District of Columbia Office of Administrative Hearings in cases arising under the 1985 Rental Housing Act. The Commission's decisions are appealable to the District of Columbia Court of Appeals. The Commission also serves as a regulatory agency, and is tasked with issuing, amending, and rescinding the rent stabilization regulations. Copies of the opinions I have authored are attached hereto.

- A. List all court decisions you have made which were reversed or otherwise criticized on appeal.**

None.

- 20. Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).**

No.

21. **Political activities and affiliations.**

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

None.

- **List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.**

None.

- **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of \$50 or more.**

None.

22. **To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.**

I received a reckless speeding ticket for going 91mph in a 55 mph on 7/24/04 in Fairfax County, Virginia. The case number is #GT04143121. It is a traffic offense, and the case was heard in the General District Traffic Court in Fairfax County, Virginia. I received a fine of \$500, 30 days execution of sentence suspended as to all, and my license was suspended in Virginia for 6 months.

23. **Have you or any business of which you are or were an officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.**

No.

24. **Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.**

I have never been disciplined or cited for a breach of ethics for unprofessional conduct. I do not know if I was the subject of a complaint (or if the District of Columbia Board of

Ethics and Government Accountability (“BEGA”) investigated an allegation that involved my conduct made in a complaint filed against someone else), but I note the following out of an abundance of caution: The District of Columbia Board of Ethics and Government Accountability (“BEGA”) conducted an investigation into allegations that I suggested to employees at the District of Columbia Rental Housing Commission to participate in a secret holiday gift giving with a limit of \$20. BEGA determined that there was no violation of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011. BEGA closed the investigation and imposed no sanctions.

II. POTENTIAL CONFLICTS OF INTEREST

1. **Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?**

Yes.

2. **Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

I currently have two retirement accounts through my employer, the District of Columbia government. The first is a 457(b) deferred compensation plan, to which I contribute. The second is a 401(a) defined contribution plan, to which my employer contributes. The 401(a) defined contribution plan does not vest immediately; rather, the value is a function of the years of service I contribute to the District of Columbia government.

3. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

My retirement and investment account includes holdings of various financial entities such as stocks, bonds, and mutual funds. In addition, my husband (Shivaprasad Nagaraj) and my sister-in-law (Renuka Nagaraj) are both attorneys.

4. **Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.**

None.

5. **Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

None.

6. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

No.

7. **Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.**

I will follow the District of Columbia Code of Judicial Conduct and the established procedures of District of Columbia Superior Court to identify and resolve any potential conflicts of interest.

8. If confirmed, do you expect to serve out your full term?

Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

- 1. Please provide a personal financial net worth statement which identifies and states the value of all assets of \$10,000 or more and liabilities of \$10,000 or more. If the aggregate of your consumer debts exceeds \$10,000, please include the total as a liability.**

REDACTED

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11 - 150 1 (b), as amended.

1. **Are you a citizen of the United States?**
Yes.
2. **Are you a member of the bar of the District of Columbia?**
Yes.
3. **Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.**
Yes, I was admitted to the bar of the District of Columbia on December 6, 2010.
4. **If the answer to Question 3 is "no" --**
 - A. **Are you a professor of law in a law school in the District of Columbia?**
 - B. **Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?**
 - C. **Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?**
 - D. **Upon what grounds is that eligibility based?**
5. **Are you a bona fide resident of the District of Columbia?**
Yes.
6. **Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.**
Yes; since November 2012, I have resided at [REDACTED]
[REDACTED] **REDACTED**
7. **Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?**
No.

- 8. Have you been a member of either of these Commissions within the last 12 months?**

No.

- 9. Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.**

My Judicial Nomination commission questionnaire is attached.

AFFIDAVIT

Rupa Ranga Puttagunta being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.



SUBSCRIBED and SWORN TO before me this 10th day of June 2021.


Notary Public



BEVERLY A FORTKAMP
Notary Public
State of Ohio
My Comm. Expires
June 9, 2025

**Senator Rand Paul
Post-Hearing Questions for the Record
Submitted to Rupa R. Puttagunta**

**Nominations of Tovah R. Calderon to be an Associate Judge, District of Columbia Court of Appeals, and Kenia Seoane Lopez, Rupa R. Puttagunta, and Sean C. Staples to be Associate Judges, Superior Court of the District of Columbia
Tuesday, September 14, 2021**

1. As an Associate Judge of the Superior Court of the District of Columbia, will you abide by the following statement?: “The Second Amendment right is exercised individually and belongs to all Americans.”

The above statement is from the Supreme Court’s opinion in *District of Columbia v. Heller*, 554 U.S. 570, 581 (2008). As an Associate Judge of the Superior Court of the District of Columbia, I would be bound by the decisions of the Supreme Court. If confirmed, I will faithfully apply Supreme Court precedent, including *District of Columbia v. Heller*, 554 U.S. 570 (2008), to the cases before me.

Senator James Lankford
Post-Hearing Questions for the Record
Submitted to Rupa R. Puttagunta

Nominations of Tovah R. Calderon to be an Associate Judge, District of Columbia Court of Appeals, and Kenia Seoane Lopez, Rupa R. Puttagunta, and Sean C. Staples to be Associate Judges, Superior Court of the District of Columbia
Tuesday, September 14, 2021

- 1) At the outset of the pandemic, Congress included eviction protection in the CARES Act. When those protections expired, the CDC issued an eviction moratorium which took effect on September 4, 2020. That rule was challenged and reached the Supreme Court. On June 29, 2021 the Court left the moratorium in place, but noted that “congressional authorization (via new legislation) would be necessary for the CDC to extend the moratorium past July 31.” Despite the Supreme Court’s warning, President Biden attempted to extend the moratorium. On August 26, 2021, the Supreme Court vacated the moratorium because it exceeded CDC’s statutory authority. The District of Columbia provided eviction protection beyond that provided by the CDC.

As the District’s eviction moratorium begins to phase out and evictions may resume next year, how will you balance the rights of landlords who, in some situations, have not received rent in over a year and a half, with the interests of tenants who seek a safe place to live?

Will you apply the law to the facts, or will other consideration influence your decision making?

Response: I will fairly and impartially resolve each case by applying the law to the facts. I will approach my work with an open mind and a willingness to listen. I will treat each party with respect, provide an opportunity to be heard, and will carefully consider their arguments. When ruling, I will provide my rationale and the governing law so that the parties will not only understand my reasoning but will also rest assured that I did not rely upon inappropriate extrinsic considerations.

- 2) What do you see are the largest or most significant criminal issues currently in D.C.? And as a judge, what can you do to be able to help in that area?

Response: I believe the increase in crime is a significant issue. If confirmed, the best way I can help is by expeditiously resolving cases fairly, consistently, and impartially, based on the facts, the arguments of the parties, and the governing law, including the right to a speedy trial. *See Barker v. Wingo*, 407 U.S. 514 (1972). I will come to court each day prepared, with an in-depth understanding of the issues on my docket, and ready to rule on matters that are ripe. I will be ready to explain the court process to *pro se* litigants so that

they are equipped to navigate the court system on their own. I will ensure that all litigants feel respected and heard.

- 3) What do you consider one of the most critical areas that you can serve D.C. while you're on the bench?

Response: One of the most critical areas I can serve the District of Columbia while on the bench is by helping reduce the court's backlog. If confirmed, I will be able to hit the ground running and efficiently work through my caseload due to my experience as a judge, trial attorney, appellate litigator, and judicial clerk; my expertise in family, criminal, and housing law; and my commitment to serving the District of Columbia.

Senator Josh Hawley
Post-Hearing Questions for the Record
Submitted to Rupa R. Puttagunta

Nominations of Tovah R. Calderon to be an Associate Judge, District of Columbia Court of Appeals, and Kenia Seoane Lopez, Rupa R. Puttagunta, and Sean C. Staples to be Associate Judges, Superior Court of the District of Columbia
Tuesday, September 14, 2021

1. The First Amendment of the United States Constitution protects the free exercise of religion.
 - a. Under Supreme Court and District of Columbia precedent, what is the legal standard used to evaluate a claim that a facially neutral state governmental action is a substantial burden on the free exercise of religion? Please cite any cases you believe would be binding precedent.

Response: The Supreme Court has held that “laws incidentally burdening religion are ordinarily not subject to strict scrutiny under the Free Exercise Clause so long as they are neutral and generally applicable.” *Fulton v. City of Philadelphia*, 141 S. Ct. 1868, 1876 (2021) (internal citation omitted); see also *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 531 (1993) (“a law that is neutral and of general applicability need not be justified by a compelling governmental interest even if the law has the incidental effect of burdening a particular religious practice.”). “Neutrality and general applicability are interrelated....” *Lukumi*, 508 U.S. at 531. The “[g]overnment fails to act neutrally when it proceeds in a manner intolerant of religious beliefs or restricts practices because of their religious nature.” *Fulton*, 141 S. Ct. at 1877. “A law is not generally applicable if it invites the government to consider the particular reasons for a person’s conduct by providing a mechanism for individualized exemptions.” *Id.* (internal citations, quotation marks, brackets omitted). “A law also lacks general applicability if it prohibits religious conduct while permitting secular conduct that undermines the government’s asserted interests in a similar way.” *Id.* Furthermore, “government regulations are not neutral and generally applicable... whenever they treat *any* comparable secular activity more favorably than religious exercise.” *Tandon v. Newsom*, 141 S. Ct. 1294, 1296 (2021) (emphasis in original) (internal citation omitted).

- b. Under Supreme Court and District of Columbia precedent, what is the legal standard used to evaluate a claim that a state governmental action discriminates against a religious group or religious belief? Please cite any cases you believe would be binding precedent.

Response: See my answer to Q1(a). Government regulations that are not neutral and generally applicable, and that discriminate against a religious group or religious belief, are subject to strict scrutiny. *Tandon v. Newsom*, 141 S. Ct. 1294, 1296 (2021) (internal citation omitted); *Fulton v. City of Philadelphia*, 141 S. Ct. 1868, 1876 (2021); *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 531-532 (1993). “A government policy can survive strict scrutiny only if it advances ‘interests of the highest order’ and is narrowly tailored to achieve those interests.” *Fulton*, 141 S. Ct. at 1881; *Lukumi*, 508 U.S. at 531-32 (a law that is not neutral and generally applicable “must be justified by a compelling governmental interest and must be narrowly tailored to advance that interest”). In explaining this standard, the Court stated, “[p]ut another way, so long as the government can achieve its interests in a manner that does not burden religion, it must do so.” *Fulton*, 141 S. Ct. at 1881.

- c. What is the standard in the District of Columbia for evaluating whether a person’s religious belief is held sincerely?

Response: The District of Columbia follows the precedent of the United States Supreme Court. In *Thomas v. Review Bd. Of Indiana Employment Security Div.*, the Supreme Court stated that “Only beliefs rooted in religion are protected by the Free Exercise Clause...” 450 U.S. 707, 713 (1981) (citation omitted). “The determination of what is a ‘religious’ belief or practice is more often than not a difficult and delicate task...” *Id.* at 714. “However, the resolution of that question is not to turn upon a judicial perception of the particular belief or practice in question; religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection.” *Id.* “Courts are not arbiters of scriptural interpretation.” *Id.* at 716; *see also Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014).

2. What is your understanding of the Supreme Court's holding in *District of Columbia v. Heller*, 554 U.S. 570 (2008)?

Response: In *District of Columbia v. Heller*, 554 U.S. 570 (2008), the Supreme Court held that the Second Amendment affords an individual the right to possess a firearm unconnected with service in the militia, and to use that arm for traditional lawful purposes, such as self-defense within the home.

3. Please state whether you agree or disagree with the following statement and explain why: "Absent binding precedent, judges should interpret statutes based on the meaning of the statutory text, which is that which an ordinary speaker of English would have understood the words to mean, in their context, at the time they were enacted."

Response: I agree. When interpreting a statute, I would first look to see if there was controlling precedent. If there is no controlling precedent, I would start my statutory analysis by reviewing the plain text of the statute. If the text is clear and unambiguous, I would simply apply the statute's terms to the facts of the case, and my analysis would end. If, however, the text was ambiguous, I would consider other indicia of statutory meaning such as examining the statute as a whole, including any statutory statements of finding and purpose, the broader statutory scheme, canons of statutory construction, applicable tools of interpretation, and any guidance from the Supreme Court and District of Columbia Court of Appeals on how to interpret statutes.

**Opening Statement of Kenia Seoane López
Nominee to be an Associate Judge of the District of Columbia Superior Court**

Good afternoon Mr. Chairman and members of the Committee. I am honored to appear before you as you consider my nomination to serve as an Associate Judge for the Superior Court of the District of Columbia.

There are many people I would like to thank today, without whose help I would not be here. First, thank you and your staff for the time and effort spent preparing for this hearing. Thank you to the D.C. Judicial Nomination Commission and its chair, Judge Emmet Sullivan, for recommending me to the White House, to President Joseph Biden for nominating me, and to Congresswoman Eleanor Holmes Norton for her kind introduction. Thank you to my siblings, Juan Jose, Wilbert, and Katherine, for their love. Thank you to my Uncle Manolo and Aunt Carmen, who passed a year ago, for paving my family's path to this country. Thank you to my large extended family in Massachusetts and Florida, as well as my friends in D.C., for their faith in me and unwavering support. Thank you to my best friend and husband Ronald, who often takes on more than his share of the parenting duties with a smile, which allows me to focus on my work. Thank you to my children, Gabriel and Natalia, for their willingness to share their mother with the families I serve. They are my source for inspiration and the impetus for everything I do.

I was born in Cuba and was fortunate to come to the United States a few months before my tenth birthday. I can say with certainty that I would not be here today without the many sacrifices made by my parents Eloisa and Jose Seoane. I will always be in awe of my mother, a woman from a small town in the eastern part of Cuba, who had the courage to dream a better life for her four children- one that would allow them to be free and to forge their own futures. My mother's dream propelled her to make decisions that set-in motion a series of events that have brought me here today before the members of this Committee. As my mother watches today from Boston, there is no doubt that this is the fulfillment of her American Dream. Never in my mother's wildest dream could she conjure her youngest daughter being considered for a position where she is trusted with upholding the U.S Constitution and overseeing the application of the rule of law, which are the fundamental principles that compelled her to bring her children to this country.

I have dedicated my career to public service, hoping to give back to the country that has afforded me and so many others the opportunity to turn dreams into reality. I have spent the vast majority of my legal career in D.C. Superior Court. For the past nine years, I have served as a Magistrate Judge on the Superior Court of the District of Columbia. Before joining the bench, I spent the majority of my legal career in D.C. Superior Court, most recently as a Bilingual Attorney Negotiator in the Domestic Violence Division of the Court and prior to that as an Assistant Attorney General for the D.C. Office of the Attorney General. The people who make up the Court—from those who keep the floors clean and the lights on to those who rule from the bench—are a second family to me. For their kindness, support, friendship, and wise guidance, I am eternally grateful. I would specifically like to acknowledge Chief Judge Anita Josey-Herring whose encouragement and mentorship has been invaluable.

Thank you again for your time today. If I am confirmed, it will be both an honor and a privilege to continue to serve the residents of the District of Columbia as an Associate Judge on the Superior Court of the District of Columbia. I look forward to answering your questions.

REDACTED

**QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE**

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

- 1. Full name (include any former names used).**

Kenia Seoane Lopez
Kenia Seoane

- 2. Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).**

I am a naturalized United States citizen. My naturalization certificate is attached.

- 3. Current office address and telephone number.**

Superior Court of the District of Columbia
500 Indiana Avenue Northwest
Chambers 4450
Washington, D.C. 20001
(202) 879-1194

- 4. Date and place of birth.**

January 14, 1974; Palma Soriano, Santiago de Cuba, Cuba.

- 5. Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**

I am married to Ronald Rodriguez, a Physical Therapist Assistant employed by Tender Touch Rehab Services, 685 River Avenue Lakewood, New Jersey 08701. My husband is also a self-employed photographer.

- 6. Names and ages of children. List occupation and employer's name if appropriate.**

REDACTED

- 7. Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.**

University of Wisconsin Law School, Madison, Wisconsin, 1999 to 2002; Juris Doctor awarded May 2002.

University of Wisconsin, Madison, Wisconsin, Master's degree in Latin American, Caribbean and Iberian Studies awarded June 2002.

Northeastern University College of Criminal Justice Graduate School, Boston, Massachusetts; September 1998 to June 1999. No degree awarded.

Northeastern University, Boston, Massachusetts; September 1992 to June 1997; Bachelor of Science in Criminal Justice awarded June 1997.

Brighton High School, Brighton, Massachusetts; High School Diploma awarded June 1992.

8. **Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

November 2007 – October 2008
Ann Taylor
1140 Connecticut Avenue, NW
Washington, D.C. 20036
Part-time Sales Associate

March 2004 – July 2004 (approx.)
Unknown (I do not recall the name of the catering company I worked for.)
Brookline, MA
Server

May 2001 – July 2001
Public Defender Services for the District of Columbia
633 Indiana Avenue, NW
Washington, D.C. 20001
Law Clerk, Trial Division

June 2000 – August 2000
Stern Shapiro Weissberg & Garin LLP
90 Canal Street, Suite 500
Boston, MA 02114
Legal Intern

October 1999 – May 2000; September 2000 – May 2001
University of Wisconsin Law School

975 Bascom Hall
Madison, Wisconsin 53706
Law Library Assistant

August 1998 – August 1999
Northeastern University Office of Admissions
360 Huntington Avenue, NW
Boston, MA 02115
Assistant Director of Undergraduate Admissions

September 1997 – May 1998
Congressional Hispanic Caucus Institute
1128 16th Street, NW
Washington, D.C. 20036
Public Policy Fellow

During my Fellowship with the Congressional Hispanic Caucus Institute, I had two placements:

January 1998 – May 1998
United States Department of Justice
Office of Juvenile Justice and Delinquency Prevention
810 7th Street, NW
Washington, D.C. 20531
Public Policy Fellow

September 1997 – January 1998
United States House of Representatives
Representative Ruben Hinojosa, District 15, Texas
Longworth House Office Building
Washington, D.C. 20001
Public Policy Fellow

9. **Honors and awards. List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.**

Top Lawyer Under 40 by the Hispanic National Bar Association (2014)

Judges of the Council of Legal Educational Opportunities (CLEO) Hall of Fame (2014)

Congressional Hispanic Caucus Institute Alumnus of the Month (2012)

US-Spain Council, Young Leaders in the United States (2011)

Hispanic Executive Magazine, Profile, Hispanic Lawyer in the Front Lines Changing the

Industry (2010)

Council on Legal Education Opportunity (“CLEO”) Diversity Network, Alumni of the Month by the Council on Legal Education Opportunity (“CLEO”) Diversity Network (2010)

District of Columbia Courts Hispanic Heritage Celebration Committee’s Community, Outreach, Recognition and Opportunity (CORO) Legal Community Award for Sustained Commitment and Demonstrated Excellence in Providing Legal Services to the Latino Community (2008)

Office of the Attorney General for the District of Columbia, Assistant United States Attorney Basic Training Participant (2007)

Congressional Hispanic Caucus Institute, Public Policy Fellow (1997 – 1998)

University of Wisconsin Law School’s Samson Fellowship (1999 – 2002)

Northeastern University College of Criminal Justice Senior Achievement Award (1997)

Dean McMahon Cooperative Education Award (1997)

Tobin Scholars Program Mentor of the Year (1996)

Northeastern University Distinguished Leader (1995)

10. **Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.**

None.

11. **Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.**

Hispanic Bar Association for the District of Columbia (HBA-D.C.)
 Co-Chair of the Equal Justice Awards Committee (2012 – 2018)
 Board of Directors (2012 – 2013)
 Liaison to the HBA-D.C. Judicial Council (2011 – 2012)
 Immediate Past-President (2011 – 2012)
 President (2010 – 2011)
 President-Elect (2009 – 2010)
 Vice-President for Internal Affairs (2008 – 2009)
 Vice-President for Internal Affairs (2007 – 2008)
 Board of Directors (2006 – 2007)

Board of Directors (2005 – 2006)
HBA-D.C. mentor to law students (2005 – Present)
Equal Justice Awards Reception Planning Committee (2004 – 2012, Co-Chair 2009 – 2010).
Endorsements Committee (2005 – 2012 (intermittent))
Student Affairs Committee (2005 – 2012 (intermittent))
Public Service Committee (2005 – 2012 (intermittent))
Social and Special Events Committee (2005 – 2012 (intermittent))
Elections Committee (2005 – 2012 (intermittent))
Legislative and Policy Committee (2005 – 2012 (intermittent))
Professional Development Committee (2005 – 2012 (intermittent))
Communications Committee (2005 – 2012 (intermittent))

Hispanic Bar Association of the District of Columbia Foundation
Secretary (2011 – 2017)
PASOS Committee member (2006 – 2017)
Foundation Fellowship Selection Committee Member, (2006 – 2015)
3L Scholarship Committee Member (2015 – 2017)

Hispanic Bar Association of the District of Columbia Judicial Council
Board Member (2011 – Present)
Chair (2017 – Present)
Co-Chair (2015 – 2016)
Treasurer (2013 – 2014)
HBA-D.C. Board Liaison (2011 – 2012)

National Association of Women Judges
Secretary, D.C. Chapter (2018 – 2019)

American Bar Association
Judicial Member (2013 – Present)

Women's Bar Association of the District of Columbia
Member (2012 – Present)

District of Columbia Bar
Member (2006 – Present)

Hispanic National Bar Association
Member (2005 – Present)

Massachusetts Bar Association
Member (2004 – Present)

Wisconsin Bar Association
Member (2003 – 2007)

12. **Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.**

Spanish Education and Development Center
Board Member (2009 – 2019)

Congressional Hispanic Caucus Institute Alumni Association
Member (2002 – Present)

Northeastern University Society of Latino/a Alumni
Member (1998 – Present)

Latinas Leading Tomorrow
Board Member (2006 – 2008)

Cub Scouts, Scouting USA
Lion Den Co-Leader (2019 – 2020)
Tiger Den Co-Leader (2020 – Present)

Prior to 2018, the Cub Scouts did not allow girls to join. Since 2018, girls and boys are permitted to join the Cub Scouts. To my knowledge, none of the other organizations listed above formerly discriminated or currently discriminates on the basis of race, sex or religion

13. **Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.**

United States Supreme Court, admitted January 11, 2012.

14. **Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.**

None.

15. **Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.**

None.

16. Legal career.

A. Describe chronologically your law practice and experience after graduation from law school, including:

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

From September 2002 to August 2003, and from February 2004 to July 2004, I was a law clerk to the Justices on the Massachusetts Superior Court. The Superior Court did not assign law clerks to work for a specific judge. Instead, we worked with all the judges, who had assignments on a rotation system. We also rotated through all the Superior Courts in the state. The judges also rotated through the various counties. During my clerkship, I worked with approximately 60 judges.

From September 2004 to September 2005, I was a law clerk at the Superior Court of the District of Columbia and worked for the following judges:

Judge Eugene Hamilton (deceased)
 Judge Bruce Beaudin (retired)
 Judge Bruce Mencher (retired)
 Judge Truman Morrison, III (retired)
 Judge Patricia Wynn
 Judge Frederick Dorsey (retired)
 Judge George H. Goodrich (deceased)
 Judge Stephen Milliken (retired)
 Judge Gregory Mize
 Judge Ronald Wertheim

(2) Whether you practiced alone, and if so, the addresses and dates;

I have never practiced law on my own.

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

November 2005 – December 2009
 Office of the Attorney General for the District of Columbia
 Child Support Services Division
 441 4th Street, NW, 5th floor
 Assistant Attorney General

December 2009 – July 2012
 Superior Court of the District of Columbia

Domestic Violence Division (formerly Domestic Violence Unit)
 500 Indiana Avenue, NW, Room 4510
 Washington, D.C. 20001
 Bilingual Attorney Negotiator

July 2012 – Present
 Superior Court of the District of Columbia
 500 Indiana Avenue, NW,
 Washington, D.C. 20011
 Magistrate Judge

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

As a law clerk for the Massachusetts Superior Court (2002 – 2005), I worked exclusively on criminal felony cases and civil cases with \$75,000 or more in controversy. During my tenure, I worked directly with over sixty Superior Court Judges on a variety of cases in areas such as probate, criminal, family, domestic violence and civil. As an Assistant Attorney General (2005 – 2009), I represented the District in paternity and child support cases. As the Bilingual Attorney Negotiator in the Domestic Violence Unit (2009 – 2012), I assisted mostly *pro se* litigants to navigate the civil protection process. Since 2012, I have had the honor of serving as a Magistrate Judge in the District of Columbia by presiding over cases in the Family Court and the Domestic Violence Unit.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

In my legal practice, I specialized in the areas of child support and domestic violence where I assisted both *pro se* litigants and attorneys to negotiate child support orders and civil protection orders.

D. Describe the general nature of your litigation experience, including:

(1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

From 2005 to 2009, I worked for the District of Columbia Office of the Attorney General's Child Support Division. During that time, I appeared in both the Family Court and the Domestic Violence Division almost daily. From 2009 to 2012, I served as the Bilingual Attorney Negotiator for the District of Columbia Superior Court's Domestic Violence Division. I did not represent any parties or entities during those years. While I did not make any formal court appearances, I was in a civil domestic violence

courtroom daily. As an Attorney Negotiator, I helped parties negotiate civil protection orders some of which also included custody and child support. After the negotiations, I drafted proposed order for the judges assigned to the Domestic Violence Division.

- (2) **What percentage of these appearances was in:**
- (a) **Federal courts (including Federal courts in D.C.);**
0%
 - (b) **State courts of record (excluding D.C. courts);**
0%
 - (c) **D.C. courts (Superior Court and D.C. Court of Appeals only);**
100%.
 - (d) **other courts and administrative bodies.**
0%
- (3) **What percentage of your litigation has been:**
- (a) **civil;**
100%
 - (b) **criminal.**
0%
- (4) **What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.**

I have not tried any cases to verdict or judgment.

What percentage of these trials was to

- (a) **a jury;**
0%

(b) the court (include cases decided on motion but tabulate them separately).

0%

17. Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.

1. *Inessa Iourienen v. Serge Iourienen*, 2006 DRB 2760 (D.C. Superior Court 2007)
(before Associate Judge Odessa Vincent)

Inessa Iourienen sought a divorce from Serge Iourienen. When the Iourienens were married, Mr. Iourienen adopted Ms. Iourienen's daughter from a previous relationship. During the divorce proceedings, Mr. Iourienen claimed that the adoption, which had taken place in Russia, was not conducted in accordance with Russian laws, and was therefore invalid. As a result, Mr. Iourienen argued he was not obligated to pay child support for the minor child. The Office of the Attorney General (OAG) petitioned to intervene for purposes of establishing a child support order and I was assigned to the case.

The Court set an evidentiary hearing to determine whether the adoption was proper. During the hearing, I argued that the issue of whether the adoption was invalid was beyond the jurisdiction of the Superior Court instead, the only way to set aside the Russian adoption was for Mr. Iourienen to seek that relief in Russia and not the United States. The Court agreed and the adoption was deemed valid.

During the pendency of this case, Mr. Iourienen also resigned from his employment and argued that he had no income to pay child support as he had health problems that prevented him from working. I successfully argued that Mr. Iourienen had not provided enough evidence to conclude that his health condition prevented him from working. I also introduced proof of Mr. Iourienen's income from his previous employer, and the Court issued a Permanent Order of Support.

Counsel for Respondent:

Kris Keegan
6525 Greentree Road
Bethesda, MD 20817
301-204-6818

2. *D.C. ex rel Saint Angelito Brown v. Saint Brown*, 2008 SUP 1707 (D.C. Superior Court, 2008) (before Magistrate Judge Karen Howze)

This was a child support case that was initiated in the Domestic Violence Unit of the District of Columbia Superior Court because the parties had an active Civil Protection Order. I was the Assistant Attorney General for the District of Columbia. This case required extensive investigation and research into the Respondent's real income and the assets of his corporation over a span of four months.

Initially, a temporary child support order was issued for \$50.00 a month, the minimum order amount for an unemployed individual, based on Mr. Brown's representation that he earned \$26,000 per year and was obligated under three separate orders to pay child support in Virginia. Through discovery I learned that Mr. Brown lived in a two-bedroom penthouse condominium which had been purchased by Mr. Brown's corporation for over \$500,000. Mr. Brown's monthly condominium fee was more than his three Virginia child support orders combined. Mr. Brown's corporation also owned two luxury vehicles that were exclusively used by him.

At the evidentiary hearing, I argued that Mr. Brown had a reduced salary because his corporation paid for his luxury apartment and luxury vehicles and that the cost of the rent should be imputed to his income. The Court agreed and imputed an income of \$60,000 which yielded a permanent order of \$683.00 per month.

Counsel for Respondent:

Pro se

Co-Counsel:

Nancy Johnson
Office of the Attorney General for the District of Columbia
Child Support Services Division
441 4th Street, NW
6th Floor North
Washington, D.C. 20001
(240) 462-8477

3. *D.C. ex rel Giovanni Sanchez v. Esteban Sanchez*, 2006 PCS 3081 (D.C. Superior Court, 2006) (before Judge Gregory Initial Hearing only, and Judge Thomas Motley Adjudication of Paternity and Permanent Order)

This case was a child support case in the District of Columbia Superior Court Domestic Violence Unit because the parties had a Civil Protection Order. Digna Carranza and Esteban Sanchez had been in a relationship for years and during the child support proceedings, Mr. Sanchez challenged the paternity of both children. A DNA test was ordered and the test results found that Mr. Sanchez was the father of both children. After the DNA results, I worked with opposing counsel to reach a Permanent Child Support Order by consent.

Opposing Counsel:

Jilma M. Lasso
Lasso & Lasso PC
4626 Wisconsin Avenue, NW
Suite 101
Washington, D.C. 20016
(202) 537-0343

4. *D.C. ex rel: Christian West v. Christopher Speight*, 2005-PCS-2395 (D.C. Superior Court 2006 – 2008) (before Associate Judge Michael Ryan)

I was the assigned Assistant Attorney General in this paternity and child support matter. The case started out in the Domestic Violence Unit as Ashelica West and Christopher Speight had a Civil Protection Order. The case was then transferred to the Domestic Relations calendar because the parties also had a Domestic Relation case to determine custody and visitation.

Judge Ryan appointed a *guardian ad litem* to conduct a home visit and represent the best interest of the child. Once the *guardian ad litem* was involved and reported to the Court, it became apparent that the minor child's best interest was to live with the father. The Court granted temporary custody to the father and, eventually, the parties agreed to permanently give the father primary physical custody.

Opposing Counsel:

Sabine Browne
Law Offices of Sabine Browne
42020 Village Center Plaza
Suite 120-52
Stone Ridge, VA 20105
(202) 670-5291

5. *Shirley Wardell v. Ricardo Little*, 1992 PCS 4637, (D.C. Superior Court 2007) (before Magistrate Judge Diane Brenneman)

I was the assigned Assistant Attorney General in this paternity and child support matter. Shirley Wardell and Ricardo Little had a teenage daughter in common. There had been a child support order for years. Mr. Little stopped paying his child support and was not working. On behalf of Ms. Wardell the District filed a Motion for Contempt because Ms. Wardell was having difficulty making ends meet without the child support payments. During the hearing, Mr. Little explained that he was no longer able to work due to a disability and that he had applied for social security benefits. The motion was continued a few times to allow Mr. Little time to prove his disability. While we waited outside of courtroom for the case to be called, it became apparent that Mr. Little was estranged from his daughter. Ms. Wardell used the opportunity to tell him about his daughter and show him pictures of her. This interaction became more important than the motion for contempt

that had brought them back into court. Mr. Little was approved for social security and did not have the ability to pay the child support owed given his limited income and inability to work. The parties agreed to not pursue contempt and Ms. Wardell withdrew her motion for contempt.

Counsel for Respondent:

Pro se

Co-Counsel:

Nancy Johnson
Office of the Attorney General for the District of Columbia
Child Support Services Division
441 4th Street, NW
6th Floor North
Washington, D.C. 20001
(240) 462-8477

- 18. Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).**

From December 2009 to July 2012, I served as an attorney negotiator for the Domestic Violence Division. I met with both parties in civil domestic violence cases prior to their hearing on the petition for a civil protection order and helped the parties understand the legal process, answering questions before they saw a judge. During the negotiations, I got a better understanding of the issues that brought the parties to court and the relief they were seeking. In most of the cases, I helped the parties agree to a consent stay away order that would be approved by the presiding judge that same day.

- 19. Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.**

On July 30, 2012, I was sworn in as a Magistrate Judge in the District of Columbia Superior Court and continue to serve in that capacity. I was appointed by former Chief Judge Lee Satterfield. The jurisdiction of the District of Columbia Superior Court Magistrate Judges is set forth in D.C. Code Sections 11-1732 and 11-1732A. During my tenure, I have served in the Family and Domestic Violence divisions. As a Magistrate Judge, I have issued thousands of standard orders including scheduling orders, child support orders, DNA testing orders, abuse and neglect permanency orders, juvenile detention orders and orders granting motions to seal. I have also issued more substantive opinions, copies of which are attached.

A. List all court decisions you have made which were reversed or otherwise criticized on appeal.

Upon motion by a party, a Magistrate Judge's final order can be reviewed by a Superior Court Associate Judge. An Associate Judge reviews such orders or judgments under the same standard applied by the Court of Appeals in reviewing a judgement or order of an Associate Judge of the Superior Court. A few of my orders have been reviewed by Associate Judges. Most were remanded for further action and one was vacated. Due to rules regarding confidentiality of Family Court cases I will use initials.

In re ZM- October 6, 2020, Associate Judge Jennifer A. Di Toro (vacated)
 TR v. TB- December 2, 2015, Associate Judge Craig Iscoe (remanded)
 JL v. DB- May 20, 2015, Associate Judge Florence Pan (remanded)
 JB v. CC- April 29, 2014, Associate Judge Florence Pan (remanded)
 TT v. AA- February 20, 2014, Associate Judge Jennifer A. Di Toro (remanded)

20. Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).

No.

21. Political activities and affiliations.

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

District of Columbia Superior Court, Magistrate Judge (2012 – Present)

- **List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.**

None.

- **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of \$50 or more.**

None.

22. To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.

On December 27, 1990, as a juvenile at the age of 16, I was arrested for shoplifting at Filene's in Natick, Massachusetts. At the court hearing, I was ordered to complete 25 hours of community service. I completed my community service hours but the probation department never received the proof. In February 1997, as a senior in college studying Criminal Justice, I realized that there was a warrant for my arrest regarding this juvenile matter. I went immediately to Natick Court and explained to the Court what happened and the case was dismissed on February 25, 1997.

23. **Have you or any business of which you are or were an officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.**

No.

24. **Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.**

In 2010, an action was filed before the Office of Campaign Finance District of Columbia Board of Elections and Ethics relating to my failure to file a Financial Disclosure Statement (docket number F10-227). On December 5, 2009, I separated from employment with District of Columbia Government and started working at the Superior Court. I was not aware that, although I was no longer employed with the District of Columbia Government, that I was still required to file a Financial Disclosure Statement by May 17, 2010. I began to receive notices in the mail indicating that I did not file a Financial Disclosure Statement and I assumed they were being sent in error. Eventually, I realized that they were not being sent in error and I immediately filed the Financial Disclosure Statement for 2009 with an affidavit explaining the untimely filing. I did not have an exit interview when I left the District of Columbia Government and I was not notified of the duty to file the disclosure following my separation. The Hearing Officer issued an order on September 30, 2010, finding that the explanation for failing to timely file was credible and that I reasonably believed that the prior notices were sent in error. The Hearing Officer also suspended any imposition of fines.

II. POTENTIAL CONFLICTS OF INTEREST

1. **Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?**

My current employer is the District of Columbia Courts. If I am confirmed, the District of Columbia Courts will continue to be my employer only I will serve as an Associate Judge instead of a Magistrate Judge.

2. **Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

None.

3. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

None.

4. **Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.**

None.

5. **Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

I am currently a member of the District of Columbia Child Support Guideline Commission. I was appointed by former Chief Judge Morin for a term of four years that started on September 1, 2017. The purpose of the Commission is to review the District of Columbia's Child Support Guidelines and recommend any updates or changes to the Mayor.

From January 2005 to January 2013, I served in various roles on the board of the Hispanic Bar Association of the District of Columbia. During this time, the organization advocated for policy changes to the District of Columbia Council and the United States Congress. The policy changes requested dealt mostly with immigration reform.

6. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

No.

7. **Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.**

I am not aware of any conflicts of interest.

8. **If confirmed, do you expect to serve out your full term?**

Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11 - 150 1 (b), as amended.

1. Are you a citizen of the United States?
Yes.
2. Are you a member of the bar of the District of Columbia?
Yes.
3. Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.
Yes. I was admitted to the District of Columbia Bar on May 12, 2006.
4. If the answer to Question 3 is "no" --
 - A. Are you a professor of law in a law school in the District of Columbia?
 - B. Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?
 - C. Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?
 - D. Upon what grounds is that eligibility based?
5. Are you a bona fide resident of the District of Columbia?
Yes.
6. Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.
Yes. Since November 2016, I have resided at [REDACTED]
[REDACTED] From November 2013 to November 2016, I resided at [REDACTED]
[REDACTED] **REDACTED**
7. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?

No.

- 8. Have you been a member of either of these Commissions within the last 12 months?**

No.

- 9. Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.**

My most recent Judicial Nomination Commission questionnaire is attached.

AFFIDAVIT

Kenia Seomne Lopez being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Kenia Seomne Lopez

SUBSCRIBED and SWORN TO before me this 9 day of June 2021

[Signature]
Notary Public



**Senator Rand Paul
Post-Hearing Questions for the Record
Submitted to Kenia Seoane Lopez**

**Nominations of Tovah R. Calderon to be an Associate Judge, District of Columbia Court of Appeals, and Kenia Seoane Lopez, Rupa R. Puttagunta, and Sean C. Staples to be Associate Judges, Superior Court of the District of Columbia
Tuesday, September 14, 2021**

1. As an Associate Judge of the Superior Court of the District of Columbia, will you abide by the following statement?: “The Second Amendment right is exercised individually and belongs to all Americans.”

Response: Yes. I will abide by and apply all the decisions of the Supreme Court, including *District of Columbia v. Heller*, 554 U.S. 570 (2008).

**Senator James Lankford
Post-Hearing Questions for the Record
Submitted to Kenia Seoane Lopez**

**Nominations of Tovah R. Calderon to be an Associate Judge, District of Columbia Court of Appeals, and Kenia Seoane Lopez, Rupa R. Puttagunta, and Sean C. Staples to be Associate Judges, Superior Court of the District of Columbia
Tuesday, September 14, 2021**

- 1) At the outset of the pandemic, Congress included eviction protection in the CARES Act. When those protections expired, the CDC issued an eviction moratorium which took effect on September 4, 2020. That rule was challenged and reached the Supreme Court. On June 29, 2021 the Court left the moratorium in place, but noted that “congressional authorization (via new legislation) would be necessary for the CDC to extend the moratorium past July 31.” Despite the Supreme Court’s warning, President Biden attempted to extend the moratorium. On August 26, 2021, the Supreme Court vacated the moratorium because it exceeded CDC’s statutory authority. The District of Columbia provided eviction protection beyond that provided by the CDC.

As the District’s eviction moratorium begins to phase out and evictions may resume next year, how will you balance the rights of landlords who, in some situations, have not received rent in over a year and a half, with the interests of tenants who seek a safe place to live?

Will you apply the law to the facts, or will other consideration influence your decision making?

Response: If confirmed and assigned to preside over eviction cases, I will, as I have done for the past nine years, apply the law to the facts of the case before me. I will follow applicable law, and I will not allow other considerations to influence my decision making in eviction cases or any other cases.

- 2) What do you see are the largest or most significant criminal issues currently in D.C.? And as a judge, what can you do to be able to help in that area?

Response: As a result of COVID, the Court is behind on criminal trials. If confirmed, given my nine years of experience as a judge, I will be able to quickly get up to speed and help my colleagues by handling trials and reducing this backlog of cases.

- 3) What do you consider one of the most critical areas that you can serve D.C. while you're on the bench?

Response: I have spent the last seventeen years at the D.C. Superior Court in different capacities. As a law student, I interned with the Public Defender Service. After

graduating from law school, I served as a law clerk to a busy chamber of ten Senior Judges who handled cases in every division of the Superior Court. I then worked as an Assistant Attorney General in the Child Support Services Division of the D.C. Office of the Attorney General, litigating cases daily before the Superior Court. I then became an Attorney Advisor for the Superior Court until I was appointed to be a Magistrate Judge nine years ago. I have had the opportunity to observe the Superior Court from many vantage points. I believe those experiences allow me to understand how critical the work we do at the Superior Court is and that it is imperative that we get it right, and that we deliver justice efficiently. I am passionate about the administration of justice and I am dedicated to making sure that it is done in a fair and impartial manner. I am committed to ensuring that we can deliver to D.C.'s residents on our promise to be open to all, trusted by all, and to deliver justice for all.

**Senator Josh Hawley
Post-Hearing Questions for the Record
Submitted to Kenia Seoane Lopez**

**Nominations of Tovah R. Calderon to be an Associate Judge, District of Columbia Court of Appeals, and Kenia Seoane Lopez, Rupa R. Puttagunta, and Sean C. Staples to be Associate Judges, Superior Court of the District of Columbia
Tuesday, September 14, 2021**

1. The First Amendment of the United States Constitution protects the free exercise of religion.
 - a. Under Supreme Court and District of Columbia precedent, what is the legal standard used to evaluate a claim that a facially neutral state governmental action is a substantial burden on the free exercise of religion? Please cite any cases you believe would be binding precedent.

Response: The Supreme Court held that “laws incidentally burdening religion are ordinarily not subject to strict scrutiny under the Free Exercise Clause so long as they are neutral and generally applicable.” *Fulton v. City of Philadelphia*, 141 S. Ct. 1868, 1871 (2021). “Government fails to act neutrally when it proceeds in a manner intolerant of religious beliefs or restricts practices because of their religious nature.” *Id.* at 1877. The government action is not generally applicable if “it invites the government to consider the particular reasons for a person’s conduct by providing a mechanism for individualized exemptions.” *Id.* “A law also lacks general applicability if it prohibits religious conduct while permitting secular conduct that undermines the government’s asserted interests in a similar way.” *Id.*; see also *Tandon v. Newsom*, 141 S. Ct. 1294 (2021) (per curiam).

- b. Under Supreme Court and District of Columbia precedent, what is the legal standard used to evaluate a claim that a state governmental action discriminates against a religious group or religious belief? Please cite any cases you believe would be binding precedent.

Response: A government action that is not generally applicable or neutral and discriminates against a religious belief or religious group is subject to strict scrutiny. See e.g., *Fulton v. City of Philadelphia*, 141 S. Ct. 1868 (2021); *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 546 (1993).

- c. What is the standard in the District of Columbia for evaluating whether a person's religious belief is held sincerely?

Response: As a magistrate judge on the District of Columbia Superior Court, I am bound by the United States Supreme Court's decisions regarding the First Amendment, and this would continue to be true if I were confirmed as an associate judge on the District of Columbia Superior Court. "[R]eligious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection." *Fulton v. City of Philadelphia*, 141 S. Ct. 1868, 1876; *see also, Burwell v. Hobby Lobby Stores Inc.*, 573 U.S. 682, 702-703 (2014).

2. What is your understanding of the Supreme Court's holding in *District of Columbia v. Heller*, 554 U.S. 570 (2008)?

Response: The Supreme Court held in *Heller* that an individual's right to possess firearms for a traditional lawful purpose, such as self-defense in a home, irrespective of membership in a militia is guaranteed under the Second Amendment. *See* 554 U.S. at 576-628.

3. Please state whether you agree or disagree with the following statement and explain why: "Absent binding precedent, judges should interpret statutes based on the meaning of the statutory text, which is that which an ordinary speaker of English would have understood the words to mean, in their context, at the time they were enacted."

Response: I agree. The starting point is always the plain text of the statute. If the text is not clear, then I would follow the rules of statutory construction. I would also consult other similar federal or state court decisions dealing with similar statutory language as persuasive non-binding authority.

Opening Statement of Sean C. Staples
Nominee to be Associate Judge of the District of Columbia Superior Court

Mr. Chairman and members of the Committee, I thank you for the opportunity to appear before you today and for considering my nomination to be an Associate Judge of the Superior Court of the District of Columbia. I thank all the members of the Judicial Nomination Commission and specifically its chair, The Honorable Emmet G. Sullivan, for recommending me to the White House and President Joseph Biden for nominating me. I wish to recognize and thank Chief Judge Anita Josey-Herring for her leadership and support, our former Chief Judge Robert Morin for his leadership and guidance, former Chief Judge Lee Satterfield who appointed me as a Magistrate Judge in 2013 and the committee staff for their work in preparing for this hearing.

I am pleased to be joined by my members of my family. My wife Mary-Frances and son Sam who are with us today. My mother and step-father, Lila and Fred Hirschmann, who could not be here today but are watching online from their home in Florida. My family members, who were mostly public-school teachers and government workers, instilled in me the importance of public interest work. I want to specifically acknowledge my Uncle George Habib, who not only encouraged me to be an attorney but to also devote my career to public service. My family has been a constant source of inspiration and encouragement throughout my life, and it is beyond certain that I would not be before you today without their ongoing love and support.

It is a great honor to be considered for Associate Judge on a court where I have worked for almost 30 years. I have been a Magistrate Judge since 2013 serving in the Family, Criminal and Domestic violence divisions, where I have presided over hundreds of cases in some of our most high-volume courtrooms. In law school, I was a law clerk and investigator for court-appointed criminal defense attorneys. I then represented adults and juveniles as a student attorney in the D.C. Law Students in Court Program (now called Rising for Justice). After graduating, I was a sole practitioner representing individuals in trial and appellate matters pursuant to the Criminal Justice Act. I was fortunate to clerk for then-Associate Judge Robert E. Morin who continues to be an invaluable guide and mentor. Judge Morin encouraged me to gain experience outside the District of Columbia so I accepted a position as an assistant public defender in Fairfax, Virginia. I was working in Fairfax when I received a call from my former professor and colleague, Ed Shacklee, who incidentally last month just retired after 40 years of public service, asking me to return to D.C. as a supervisor and clinical professor at the D.C. Law Students in Court Program. I was honored to spend six years teaching and working to inspire students to think about careers in public service when I was asked to join DC's Children's Law Center. The law center was becoming the largest legal services organization in the city and was the only one to focus on children. I spent seven years working in the Guardian Ad Litem Program, the last two as program director, where I supervised over half of the agencies 80-person staff in the representation of over 500 children a year in the abuse and neglect system.

It has been an honor and a privilege to have served the citizens of the District of Columbia throughout my career. I am humbled by the opportunity, if confirmed, to be an Associate Judge and continue to serve the community I have been a part of for almost 30 years and that I care about so much. I look forward to answering any questions you may have.

REDACTED

QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

1. Full name (include any former names used).

Sean Curtis Staples

2. Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).

I am a citizen of the United States.

3. Current office address and telephone number.

500 Indiana Avenue, NW, Room 4450
Washington, DC 20001
(202) 879-0125

4. Date and place of birth.

April 11, 1969; Poughkeepsie, NY.

5. Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).

I am married to Mary-Frances Wain. She is the Chief Engagement Officer for Prosperity Now located at 1200 G Street, NW, #400, Washington, DC, 20005.

6. Names and ages of children. List occupation and employer's name if appropriate.

REDACTED

7. Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.

The Catholic University of America, Columbus School of Law, 1993 – 1996; JD received in 1996.

Syracuse University, 1987 – 1991; BS received in 1991.

John Jay Senior High School, 1985 – 1987; High School Diploma received in 1987.

8. **Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

1991 – 1993
 United States House of Representatives
 Rayburn House Office Building
 45 Independence Avenue, SW
 Washington, DC, 20515
 Legislative Aide and Assistant Press Secretary to Congressman Hamilton Fish, Jr.

9. **Honors and awards. List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.**

The Catholic University of America, Columbus School of Law
 Law Review (1994 – 1996)
 Magna Cum Laude Graduate (1996)

The Catholic University, Columbus School of Law
 Distinguished Achievement Scholarship (1995)
 Miller Scholarship (1995)

Syracuse University
 Honors Program (1987 – 1989)
 Winner, Nissan National Advertising Contest (1991)

10. **Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.**

District of Columbia Law Students in Court
 Board of Directors (2011 – 2013)

11. **Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.**

District of Columbia Superior Court
 Criminal Justice Act Panel Committee (2018 – present) Judicial Training and Education Committee (2017 – present)
 Family Court Rules Committee (2015 – 2017)
 Family Court Training Committee (2015 – 2017)

District of Columbia Bar

Co-Chair of the Courts, Lawyers and Administration of Justice Section (2011 – 2012)

Family Law Section (2010 – 2013)

Courts, Lawyers and Administration of Justice Section (2010 – 2103)

Steering Committee (2010)

12. **Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.**

None.

13. **Court admissions. List all courts in which you have been admitted to practice, with dates of admission and lapses in admission if any such memberships have lapsed. Please explain the reason for any lapse in membership. Please provide the same information for any administrative bodies which require special admission to practice.**

Virginia, December 10, 1998

Court of Appeals of Maryland, June 25, 1997

Maryland, June 25, 1997

District of Columbia Court of Appeals, December 20, 1996

District of Columbia, December 20, 1996

My District of Columbia bar membership was administratively suspended for three weeks in January 2002 because I inadvertently failed to pay my bar dues. Upon learning of the oversight, I promptly paid my dues and my membership was reinstated. I became a member of the Maryland bar at a time that I expected to work in Maryland, however, I instead worked in Virginia and my Maryland bar membership was decertified in April 2003. My Virginia bar membership was administratively suspended in October 2002 as I was no longer practicing in Virginia. I sought to take inactive status, but was informed by the Virginia bar that I could not do so and my Virginia license was forfeited in January 2005. There have otherwise been no lapses in memberships.

14. **Published writings. List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.**

None.

15. **Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.**

None.

16. **Legal career.**

- A. **Describe chronologically your law practice and experience after graduation from law school, including:**

- (1) **Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;**

I clerked for Associate Judge Robert E. Morin in the District of Columbia Superior Court from October 1998 to July 1999.

- (2) **Whether you practiced alone, and if so, the addresses and dates;**

I was a sole practitioner from January 1997 to October 1998. My address was 1916 17th Street, NW, #113, Washington, DC 20009.

I was also a sole practitioner from April 2006 to October 2006. My address was 1636 Florida Avenue, NW, Washington, DC 20009.

- (3) **The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.**

1999 – 2000
Office of the Public Defender for Fairfax County Virginia
4103 Chain Bridge Road, #500
Fairfax, VA 22030
Assistant Public Defender

2000 – 2006
District of Columbia Law Students in Court (now Rising for Justice)
901 4th Street, NW, Suite 6000
Washington, DC 20001
Clinical Professor/Supervising Attorney

2006 – 2013
Children's Law Center (CLC)
501 3rd Street, NW, #800
Washington, DC 20001
GAL Project Director (2011 – 2013)
Senior Supervising Attorney (2008 – 2001)

Supervising Attorney (2006 – 2008)

2012 – 2013
District of Columbia Office of Police Complaints
1400 I Street, NW, STE 700
Washington, DC 20005
Complaint Examiner

2013 – Present
District of Columbia Superior Court
500 Indiana Avenue, NW Room 4220
Washington, DC 20001
Magistrate Judge

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

My law practice has focused on representing low income adults and children in and around the District of Columbia.

From January 1997 to October 1998 I was a sole practitioner representing court appointed adults and juveniles in criminal and delinquency cases in the District of Columbia Superior Court and the District of Columbia Court of Appeals.

I then clerked for then Associate Judge Robert E. Morin in the District of Columbia Superior court from October of 1998 to July of 1999. After my clerkship I worked as an Assistant Public Defender for the Office of the Public Defender in Fairfax, Virginia, representing adults charged with misdemeanor, felony and traffic cases until July 2000.

I worked as clinical professor and supervising attorney with the District of Columbia Law Students in Court from July 2000 to July 2006. I developed and implemented a clinical teaching curriculum and supervised law students in the representation of approximately 100 adults and juveniles charged with criminal offenses in the District of Columbia Superior Court.

I briefly resumed my sole practice in July 2006 until my work began with the Children's Law Center in October 2006. I first worked as supervising attorney supervising attorneys serving as Guardian *ad litem* for children in abuse and neglect cases in the District of Columbia Superior Court. I was promoted to senior supervising attorney in October of 2008 and Guardian *ad litem* Project Director in June of 2011. As Project Director, I managed over half of the 80-person staff and was responsible for fulfilling our contract with the District of Columbia Superior Court representing over 500 children per year while providing training and resource deliverables. During my time at the Children's Law Center, I worked part-time as a complaint examiner at the District of Columbia Office of

Police Complaints from 2012 to 2013. I adjudicated civilian complaints of alleged misconduct against District of Columbia Metropolitan Police Department officers.

I was appointed as Magistrate Judge for the District of Columbia Superior Court in December of 2013. I presided over an abuse and neglect calendar in the Family Division presiding over abuse and neglect, adoption, guardianship, custody and termination of parental rights cases until January 2017. Since January 2017, I have presided in both the Domestic Violence and Criminal Divisions. I preside over civil protection order, paternity and support, criminal arraignment and presentments, preliminary hearing and misdemeanor and traffic trial cases.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

As a practicing attorney, my clients were low-income adults and children in the District of Columbia, and I developed an expertise in criminal and juvenile delinquency practice. I have particular expertise in criminal investigation, including criminal discovery litigation, criminal motions practice, sentencing and probation revocation litigation. At the Children's Law Center I developed an expertise in family law, with a particular expertise in abuse and neglect law including initial hearings, shelter care and pretrial release, the application of Interstate Compact on the Placement of Children to abused and neglected children, disposition, review and permanency hearings. As a magistrate judge I have continued to develop an expertise in abuse and neglect, adoption, guardianship, custody and general criminal and family law.

D. Describe the general nature of your litigation experience, including:

(1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

I appeared in court several times a week throughout my career as a criminal and family court attorney. I appear in court daily as a magistrate judge.

(2) What percentage of these appearances was in:

(a) Federal courts (including Federal courts in D.C.);

0%

(b) State courts of record (excluding D.C. courts);

5%

(c) **D.C. courts (Superior Court and D.C. Court of Appeals only);**

95%

(d) **other courts and administrative bodies.**

0 %

(3) **What percentage of your litigation has been:**

(a) **civil;**

50%

(b) **criminal;**

50%

(4) **What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.**

I estimate that I have tried over 85 cases to verdict or judgment as supervising counsel, chief counsel with student co-counsel, an assistant public defender or sole practitioner.

(5) **What percentage of these trials was to**

(a) **a jury;**

0%

(b) **the court (include cases decided on motion but tabulate them separately).**

100%

17. **Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case.**

Identify the party/parties you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case, (a) the date of representation; (b) the court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.

1. In Re B.L., J.L. Apt. 08-FS-1329 (July 20, 2010) (J. Patricia Broderick)

On June 13, 2007, three girls—B. L., age seven, J. L., age six and B. L., age four—were removed from their father, Mr. L.’s home and placed in foster care. The Children’s Law Center (CLC) served as the guardian al litem for the girls. CLC’s investigation revealed the girls had been sexually abused by their father, whom the government had declined to prosecute. The girls would likely have been asked to testify at trial, which their therapist opined could have a devastating impact on their emotional well-being. To avoid that result we argued that because they were victims of serious and profound abuse, the girls were without proper parental care and control pursuant to Section 16-2301 (9)(A)(ii) of the District of Columbia Code. The trial court agreed and Mr. L. appealed. I supervised and co-wrote the appellate brief in opposition in the case and supervised the case throughout the appeal. On July 20, 2010, the Court of Appeals affirmed the lower court’s decision. Our clients were adopted by a caring and loving family.

Co-Counsel:

Alice Stevens
400 6th Street, SW, 5th Floor,
Washington, DC 20024
(202) 727-7062

Opposing Counsel (At Trial):

Marco Cabezas
4508 Van Ness Street, NW
Washington, DC 20016
(202) 744-4008

Opposing Counsel (On Appeal):

Leslie Susskind
1 Research Court, Suite 450
Rockville, MD 20850
(301) 216-3803

2. In Re R.F., J.F. GDN 445,448-05 (DC Super. Ct. 2007) (M.J. Lori Parker)

R.F. and J.F. came to the attention of the District of Columbia’s Child and Family Services Agency (CFSA) in 2004 after the R.F. was found wandering in public without adult supervision. I was appointed to serve as their guardian ad litem. R.F. and J.F. were placed with their aunt, Ms. D. All the while, the two girls had been visiting with their father, Mr. C. Mr. C. had seen his children for much of their young lives but had never

been their primary caretaker. Shortly after the inception of this case, however, he maintained regular visitation with the girls and expressed an interest in being reunified with them. He lacked stable housing. Ms. D. filed a motion for guardianship which Mr. C opposed. I proposed we continue the date to see if Mr. C. could find housing and develop a bond with his daughters pursuant to the legal mandate to return children to their parents when it is in their best interests to do so. Ms. D.'s counsel and government counsel opposed my request. The Court agreed to give Mr. C time to find housing and the girls were ultimately reunited with their father, avoiding a contentious guardianship trial.

Co-Counsel (Father's Attorney):

Marco Cabezas,
4508 Van Ness Street, NW
Washington, DC, 20016.
(202) 744-4008

Opposing Counsel:

Pip Lisas
400 6th Street, SW, 5th Floor
Washington, DC 20024
(202) 727-3400

Opposing Counsel:

Sabine Browne
43053 Pemberton Square
Suite 120, PMB #135
South Riding, VA 20152
(202) 449-2383

3. United States v. Victoria Watkins, 2002-CMD-10392 (DC Super. Ct. 2002) (J. Robert Rigsby)

I was appointed alongside student co-counsel at the District of Columbia Law Students in Court to represent a woman charged with solicitation for purposes of prostitution. Our client had four prior solicitation convictions and was on probation for the same charge. She maintained her innocence. The government alleged that our client approached an undercover officer and agreed to engage in a sex act for a fee. The client chose to testify in her own defense, where she disclosed years of addiction, humiliation, and abuse. She noted that earlier that night she had been abused by her current boyfriend and that at that particular time she had said no to the undercover officer's request for sex for money. She admitted that night she was looking for drugs to help dull the pain of yet another abusive relationship and in her words, "did not want a man to touch me." The trial court credited her account and acquitted her.

4. United States v. Jermaine Goins, 1997-CMD-19489 (DC Super. Ct. 1997) (J. Frederick D. Dorsey)

Mr. Goines was charged with possession of cocaine. The Court granted my motion to compel discovery and ordered the government to produce information about the practices and procedures of the Drug Enforcement Agency's laboratory with respect to chemical analysis of alleged controlled substances. The government failed to comply with the Court's order and I argued and won dismissal of the case as a sanction. In subsequent years, the District of Columbia Court of Appeals held in *Jackson v. United States*, 768 A.2d 580 (D.C. 2001), that forensic chemists' worksheets that provided the details of tests and results are discoverable under Super. Ct. Crim. R. 16 (a)(1)(D).

Opposing Counsel:

John Brownlee
Holland & Knight
800 17th Street, NW
Suite 1100
Washington, DC 20006
(202) 828-1854

5. *United States v. Emmanuel Greene*, M-5745-97 (DC Super. Ct. 1997) Judge Robert E. Morin)

I represented Mr. Greene, a teacher's aide charged with the sexual touching of a nine-year-old girl at her elementary school. Mr. Greene steadfastly maintained his innocence. I investigated the case and was able to show Mr. Greene was factually innocent. As a result, he was acquitted.

Opposing Counsel:

Beth Minzuno
U.S. Nuclear Regulatory Commission
Mail Stop 0-15 D21
Washington, DC 20555
(301) 415-3122

- 18. Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).**

Children's Law Center (CLC) is the largest legal services organization in the District of Columbia and the only to focus on children. During my tenure, the 80 person staff, together with hundreds of pro bono partners, helped more than 2,000 children and caregivers every year. As the GAL Project Director, I was responsible for the legal work product, community support and training activities that accounted for more than 75 percent of the yearly budget.

My primary responsibilities were to ensure that the GAL Project provided high quality representation, supported the court-appointed bar and fulfilled the requirements of CLC's contract for GAL representation with DC Superior Court. I had direct management responsibility of over half of CLC's employees. I created and implemented a social work program at CLC. I defined the role CLC social workers play in the investigation of a client's circumstances and in recommendations to the court. I created the structure for how attorneys and social workers interact at CLC including a case referral process and an evaluation of the progress through the GAL/social worker collaboration. I worked with the social workers and attorneys to create best practices regarding the support CLC social workers provide to GALs. I led our multi-year GAL project evaluation. CLC created an evidence-based model of GAL representation. This involved coordinating a team of attorneys, social workers, investigators and a program evaluator in analyzing CLC's practice as it relates to attaining concrete goals for clients. We created both a teen and child model that each have a series of goals CLC will strive to attain for its clients both at case closure and in the long-term. The models include action steps attorneys will take to help clients attain the goals. I created a GAL practice manual based on the practice models. As CLC implements the practice manual over time it will survey clients and be able to measure whether or not its work has, in fact, enabled clients to achieve long-term goals such as maintaining a safe and stable family and enjoying improved physical and emotional health. CLC is one of the only legal services organizations in the country creating an evidence-based method of practice. As a project leader, I collaborated with other project directors and the management team on special projects designed to improve our client's health, education and general welfare. I participated in the review and editing process of CLC's comprehensive plan, Improving the Children's Mental Health System. The plan outlines the challenges children in the District of Columbia face in accessing quality mental health services and offers concrete recommendations on how to increase the number of mental health providers in the District of Columbia and enhance the quality of the services they provide.

19. **Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.**

I was appointed a District of Columbia Superior Court Magistrate Judge in December of 2013. It is a court of general jurisdiction and the jurisdiction of Magistrate Judges is set forth in D.C. Code Sections 11-1732 and 11-732A. I was initially assigned to an abuse and neglect calendar. I presided over that calendar for three years. I presided over many neglect, adoption and guardianship cases that resulted in written opinions. I did not author many of the opinions in uncontested cases. Instead, they were presented to the court by the parties as proposed findings of fact and conclusions of law. They were then edited or modified and issued as orders. I have attached all opinions I authored in cases during that time. Because the opinions arose out of abuse and neglect cases, they have been redacted to remove any identifying information of the parties.

I have been assigned to the Domestic Violence and Criminal Divisions since 2017. I have presided over criminal arraignments and presentments, preliminary hearings, traffic cases including DWI, indecent exposure, reckless driving and driving permit offenses, and civil protection order cases. The assignments in the Criminal and Domestic Violence Divisions are not the type where substantive written opinions are issued.

A. List all court decisions you have made which were reversed or otherwise criticized on appeal.

None.

- 20. Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).**

I was recommended by the District of Columbia Judicial Nomination Commission for a position as an associate judge of the District of Columbia Superior Court in October of 2013 and October of 2016.

- 21. Political activities and affiliations.**

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

I am a District of Columbia Superior Court Magistrate Judge.

- **List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.**

None.

- **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of \$50 or more.**

None.

- 22. To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.**

No.

- 23. Have you or any business of which you are or were an officer, director or owner ever been a party or otherwise involved as a party in any other legal or**

administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.

I was a defendant in Marcellus Dyson v. Sean Staples et al., 2015 CA 008993 B in the District of Columbia Superior Court. Mr. Dyson is a parent in a matter that was before me and sued me and the other parties to the case. The case was dismissed for failure to state a valid claim on February 8, 2016.

Though not responsive, out of an abundance of caution I note that I was a character witness for a friend at a sentencing hearing in a criminal proceeding in Montgomery County, Maryland, in 1999. The case has been expunged from public record.

- 24. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.**

No.

II. POTENTIAL CONFLICTS OF INTEREST

1. **Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?**

I will remain employed by the District of Columbia Superior Court if confirmed.

2. **Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

None.

3. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

None.

4. **Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.**

None.

5. **Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

None.

6. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

No.

7. **Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.**

I will resolve any potential conflicts of interest on a case-by-case basis in accordance with the District of Columbia Code of Judicial Conduct and any other relevant rules or procedures applicable to Associates Judges on the District of Columbia Superior Court.

8. **If confirmed, do you expect to serve out your full term?**

Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11-1501 (b), as amended.

1. Are you a citizen of the United States?

Yes.

2. Are you a member of the bar of the District of Columbia?

Yes.

3. Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.

I have been a member of the District of Columbia bar since December 20, 1996.

4. If the answer to Question 3 is "no" --

A. Are you a professor of law in a law school in the District of Columbia?

B. Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?

C. Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?

D. Upon what grounds is that eligibility based?

5. Are you a bona fide resident of the District of Columbia?

Yes.

6. Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.

Yes. Since 2008, I have resided at [REDACTED] REDACTED

7. Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?

No.

- 8. Have you been a member of either of these Commissions within the last 12 months?**

No.

- 9. Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.**

My District of Columbia Judicial Nomination questionnaire is attached.

AFFIDAVIT

Sean C. Staples being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Sean Staples

SUBSCRIBED and SWORN TO before me this 8 day of July 2021.

Melanie Cordona
Notary Public



**Senator Rand Paul
Post-Hearing Questions for the Record
Submitted to Sean C. Staples**

**Nominations of Tovah R. Calderon to be an Associate Judge, District of Columbia Court of Appeals, and Kenia Seoane Lopez, Rupa R. Puttagunta, and Sean C. Staples to be Associate Judges, Superior Court of the District of Columbia
Tuesday, September 14, 2021**

1. As an Associate Judge of the Superior Court of the District of Columbia, will you abide by the following statement?: “The Second Amendment right is exercised individually and belongs to all Americans.”

Response: I will follow the precedent set forth in *District of Columbia v. Heller*, 554 U.S. 570 (2008), which held that the Second Amendment protects an individual right to possess a firearm without regard to service in a militia, and to use that firearm for lawful purposes, such as self-defense within the home. *See id.* at 576-628. The United States Supreme Court also held that the District of Columbia’s “ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense.” *Id.* at 635.

**Senator James Lankford
Post-Hearing Questions for the Record
Submitted to Sean C. Staples**

**Nominations of Tovah R. Calderon to be an Associate Judge, District of Columbia Court of Appeals, and Kenia Seoane Lopez, Rupa R. Puttagunta, and Sean C. Staples to be Associate Judges, Superior Court of the District of Columbia
Tuesday, September 14, 2021**

- 1) At the outset of the pandemic, Congress included eviction protection in the CARES Act. When those protections expired, the CDC issued an eviction moratorium which took effect on September 4, 2020. That rule was challenged and reached the Supreme Court. On June 29, 2021 the Court left the moratorium in place, but noted that “congressional authorization (via new legislation) would be necessary for the CDC to extend the moratorium past July 31.” Despite the Supreme Court’s warning, President Biden attempted to extend the moratorium. On August 26, 2021, the Supreme Court vacated the moratorium because it exceeded CDC’s statutory authority. The District of Columbia provided eviction protection beyond that provided by the CDC.

As the District’s eviction moratorium begins to phase out and evictions may resume next year, how will you balance the rights of landlords who, in some situations, have not received rent in over a year and a half, with the interests of tenants who seek a safe place to live?

Will you apply the law to the facts, or will other consideration influence your decision making?

Response: The District of Columbia has enacted the *Public Emergency Extension and Eviction and Utility Moratorium Phasing Emergency Amendment Act of 2021*, D.C. Act 24-125, 68 DCR.007342 (July 24, 2021). If confirmed, and called upon to interpret or rule on any challenges to the statute I would apply any locally binding precedent and precedent from the Supreme Court. I would only apply the law to the facts of any case before me regarding issues of eviction and the eviction moratorium in the District of Columbia.

- 2) What do you see are the largest or most significant criminal issues currently in D.C.? And as a judge, what can you do to be able to help in that area?

Response: The number of pending criminal cases in the court is one of the most significant issues facing the District of Columbia. Although the jurisdiction of magistrate judges is limited, I have handled significant portions of criminal cases regarding pretrial detention and release and probable cause determinations. If confirmed, and assigned to

the criminal court, I would preside over all aspects of criminal cases daily with a focus on delivering justice as fairly and efficiently as possible.

- 3) What do you consider one of the most critical areas that you can serve D.C. while you're on the bench?

Response: I have spent almost the last eight years presiding over the Family, Domestic Violence and Criminal Divisions of D.C Superior Court as a magistrate judge. If confirmed as an associate judge, I believe serving in any Division of D.C. Superior Court would serve a critical function for the citizens of the District of Columbia. If confirmed and assigned to either the civil or probate divisions, my experience in all the other divisions in the courthouse would prepare me to serve well and efficiently.

**Senator Josh Hawley
Post-Hearing Questions for the Record
Submitted to Sean C. Staples**

**Nominations of Tovah R. Calderon to be an Associate Judge, District of Columbia Court of Appeals, and Kenia Seoane Lopez, Rupa R. Puttagunta, and Sean C. Staples to be Associate Judges, Superior Court of the District of Columbia
Tuesday, September 14, 2021**

1. The First Amendment of the United States Constitution protects the free exercise of religion.

- a. Under Supreme Court and District of Columbia precedent, what is the legal standard used to evaluate a claim that a facially neutral state governmental action is a substantial burden on the free exercise of religion? Please cite any cases you believe would be binding precedent.

Response: The Supreme Court has held that “a law that burdens religious practice need not be justified by a compelling governmental interest if it is neutral and of general applicability.” *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 521 (1993). The Supreme Court recently held that a law is not neutral and generally applicable if it “treat[s] any comparable secular activity more favorably than religious exercise” *Tandon v. Newsom*, 141 S. Ct. 1294, 1296, (2021). “If a law is neutral and of general applicability, then the law need only survive rational basis review, even if it “has the incidental effect of burdening a particular religious practice.” *S. Bay United Pentecostal Church v. Newsom*, 985 F.3d 1128, 1140 (9th Cir. 2021) (quoting *Church of the Lukumi*, 508 U.S. at 531).

- b. Under Supreme Court and District of Columbia precedent, what is the legal standard used to evaluate a claim that a state governmental action discriminates against a religious group or religious belief? Please cite any cases you believe would be binding precedent.

Response: “At a minimum, the protections of the Free Exercise Clause pertain if the law at issue discriminates against some or all religious beliefs or regulates or prohibits conduct because it is undertaken for religious reasons.” *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532 (1993). “Although a law targeting religious beliefs as such is never permissible,” if the “object of a law is to infringe upon or restrict practices because of their religious motivation, the law is not neutral,” and it is “invalid unless it is justified by a compelling interest and is narrowly tailored to advance that interest.” *Id.* at 533. “Government fails to act neutrally when it proceeds in a manner intolerant of religious beliefs or restricts practices because of their religious nature.” *Fulton v. City of Philadelphia*,

Pennsylvania, 141 S. Ct. 1868, 1877 (2021).

- c. What is the standard in the District of Columbia for evaluating whether a person's religious belief is held sincerely?

Response: The District of Columbia is bound by the Supreme Court, which has held that "religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection." *Fulton v. City of Philadelphia, Pennsylvania*, 141 S. Ct. 1868, 1876 (2021) (quoting *Thomas v. Review Bd. of Ind. Employment Security Div.*, 450 U.S. 707, 714 (1981); see also *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 724 (2014).

2. What is your understanding of the Supreme Court's holding in *District of Columbia v. Heller*, 554 U.S. 570 (2008)?

Response: *District of Columbia v. Heller*, 554 U.S. 570 (2008) holds that the Second Amendment protects an individual right to possess a firearm without regard to service in a militia, and to use that firearm for lawful purposes, such as self-defense within the home. See *Id.* at 576-628. The Supreme Court also held that the District of Columbia's "ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense." *Id.* at 635.

3. Please state whether you agree or disagree with the following statement and explain why: "Absent binding precedent, judges should interpret statutes based on the meaning of the statutory text, which is that which an ordinary speaker of English would have understood the words to mean, in their context, at the time they were enacted."

Response: I agree and would follow the United States Supreme Court's precedent that "our job is to interpret the words [of a statute] consistent with their 'ordinary meaning . . . at the time Congress enacted the statute.'" *Wisconsin Cent. Ltd. v. United States*, 138 S. Ct. 2067, 2070 (2018) (quoting *Perrin v. United States*, 444 U.S. 37, 42 (1979)).